

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.2316 OF 2009

JUDGMENT:

Seeking enhancement of compensation, petitioner in O.P.No.488 of 2005 on the file of Chairman, Motor Accidents Claims Tribunal – cum – V Additional District Judge, Karimnagar, preferred the instant appeal on the ground that the amount of Rs.2,96,000/- awarded by the Tribunal as compensation by order and decree, dated 25.02.2008, passed in the said O.P., as against the claim of Rs.4,00,000/-, is on lower side.

2. Heard Sri P. Raja Sripathi Rao, learned counsel for the appellant, Sri E. Venkat Reddy, learned counsel for respondent No.1, and Sri K. Subba Rao, learned Standing Counsel for respondent No.2.

3. Perused the order under challenge and the evidence on record.

4. There is no dispute with regard to the fact situation leading to the injuries sustained by the appellant and also the disability of 30%, in view of the evidence of PWs.2 and 3 – Medical Officers, who treated the appellant and conducted operations on him, as could be seen from paragraph Nos.13 and 14 of the order under challenge. Therefore, there is no need to once again refer to the evidence of PWs.2 and 3 on the surgical procedures undergone by the appellant. What all can be gathered from the order sought to be modified is that

the appellant, in the said accident, suffered pelvic fracture, thigh bone fracture and even suspected to have intra abdominal injury and advised surgery, which surgical intervention was undergone by the appellant on 16.03.2005, done by PW.2 and another Doctor. Even the appellant has undergone colostomy, cleaning of rectal bone and repair of thigh bone fracture, and discharged on 14.04.2005. Thus, the appellant, initially, undergone treatment in Poulami Hospital and then at Sigma Hospital, and incurred certain amounts towards medical expenses and doctors' fee, and almost suffered for one year to get his health nearer to normalcy. The Tribunal, having accepted the evidence of PWs.2 and 3 and considering 30% disability, granted Rs.1,55,000/- towards medical expenses, Rs.5,000/- towards transport charges, Rs.20,000/- towards pain and suffering, Rs.16,000/- towards temporary loss of income and, though, arrived the loss of earnings due to 30% disability at Rs.1,29,600/-, taking the income of the petitioner at Rs.2,000/- per month and applying multiplier '18', since, the appellant has claimed only Rs.1,00,000/- towards the disability, granted the same. Thus, a total sum of Rs.2,96,000/- was granted with interest at 7.5% per annum thereon.

5. The Tribunal, somehow, granted Rs.30,000/- towards the medical expenses at Sigma Hospital, as against the bills for Rs.49,639/-, Rs.14,500/- and Rs.29,290/-, on the ground that there was lack of clarity, on a close scrutiny and verification at Sigma

Hospital. But, of course, all the discrepancies were sufficiently explained, where there has been duplication of the amounts in subsequent bills. Be that as it may, when looked at the injuries sustained by the appellant and the procedures he had undergone, it would reflect that the amounts shown in the bills relating to Sigma Hospital ought to be granted as against Rs.30,000/- granted by the Tribunal. Therefore, Rs.93,429/- (Rs.49,639/- + Rs.14,500/- + Rs.29,290/-) is granted as against Rs.30,000/- granted by the Tribunal for the treatment at Sigma Hospital. The amount of Rs.1,00,000/- granted by the Tribunal towards treatment at Poulami Hospital is maintained, so also the amount of Rs.25,000/- granted towards purchase of medicines, snacks and blood.

6. So far as the amount of Rs.5,000/- granted towards transport charges is concerned, the same requires hike, when viewed in the context of appellant visiting three hospitals and also for follow up. Therefore, the same is enhanced to Rs.10,000/-. The amount of Rs.20,000/- granted towards pain and suffering is enhanced to Rs.40,000/-, when, kept in view, the sufferance the appellant had undergone for a period of one year. The Tribunal has granted Rs.16,000/- towards temporary loss of earnings. The same is maintained. Though, the Tribunal arrived at Rs.1,29,600/- towards 30% disability, restricted it to Rs.1,00,000/-. However, the appellant cannot be deprived of the amount to which he is entitled to, arrived at

by the Tribunal towards 30% disability. Hence, the amount of Rs.1,29,600/- is granted towards 30% disability as against Rs.1,00,000/- granted by the Tribunal. Since no amount is granted towards extra nourishment, a sum of Rs.10,000/- is granted. Towards attendant charges, no amount is granted by the Tribunal. Keeping in view, the assistance that was required by the appellant for atleast four months, a sum of Rs.6,000/- is granted. Thus, the appellant is totally entitled to Rs.4,30,029/-. Since the Tribunal has granted interest at 7.5% per annum, which is in tune with the rate of interest awarded by the Honourable Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹, the same is maintained on the enhanced amount also.

7. Accordingly, the present appeal is allowed enhancing the compensation from Rs.2,96,000/- to Rs.4,30,029/-. The appellant is directed to pay Court fee on an amount of Rs.30,029/- within four months.

8. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

December 28, 2016
MD

¹ (2013) 9 SCC 54