

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.1579 of 2005

JUDGMENT:

The injured, who is the claimant in O.P.No.1263 of 2002 on the file of the Court of the Motor Accidents Claims Tribunal (I Additional District Judge) at Warangal (for short, Tribunal), is the appellant herein.

2. The appellant filed the said OP claiming compensation of Rs.1,50,000/- alleging that on 21.11.2001 when the appellant, along with his wife, was going in the village Jakaram, and in front of house of one Ilaiah, a tractor bearing No.AP36U 5205 came in a rash and negligent manner and dashed him, as a result of which, the appellant sustained grievous injuries. The driver and owner of the offending vehicle remained *ex parte* and the case was contested by the insurance company.

3. The Tribunal framed the following issues.

- “1. Whether the accident took place on account of the rash and negligent driving of the tractor bearing No.AP36U 5205 by its driver or due to negligence on part of the petitioner himself?
2. Whether the petitioner is entitled to receive any compensation. If so, to what amount and from whom?
3. To what relief?”

4. The appellant was examined as P.W.1 and Exs.A.1 to A.7 were marked on his behalf. No evidence was let in on behalf of the insurance company.

5. The Tribunal, on the basis of oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the tractor.

6. In support of the injuries, the appellant filed Exs.A.3, A.5 and A.7.

Ex.A.3 is the injury certificate, Ex.A.5 is the discharge card of Jaya Hospital, Warangal and Ex.A.7 is the disability certificate. The Tribunal disbelieved Ex.A.7 disability certificate on the ground of lack of proof. As per Ex.A.3 certificate, the appellant sustained three injuries, one is to the ankle joint, another is a closed head injury, which are grievous in nature and the third injury was said to be a simple injury.

7. The Tribunal, taking those injuries into consideration, awarded an amount of Rs.20,000/- towards pain and suffering, Rs.5,000/- towards medical expenses and Rs.5,000/- towards loss of earnings, in all, an amount of Rs.30,000/- was awarded, by its award dated 20.09.2004. Seeking enhancement of the said compensation, the present appeal is filed.

8. As per Ex.A.3 certificate, the appellant sustained two grievous injuries and one simple injury. The injuries were to the ankle joint and head. Though the appellant stated that a surgery was conducted to the knee joint, no evidence was let in. However, taking into consideration the nature of the injuries, the appellant should have been awarded an amount of Rs.20,000/- for the said injuries. The amount of Rs.20,000/-

awarded towards pain and suffering, Rs.5,000/- towards medical expenses and attendant charges and Rs.5,000/- towards loss of earnings appear to be just and do not need any enhancement.

9. Hence, the award of the Tribunal dated 29.09.2004 in O.P.No.1263 of 2002 awarding an amount of Rs.30,000/- is enhanced to Rs.50,000/-. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of petition till the date of realization.

10. Accordingly, the appeal is partly allowed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 21.01.2016

TJMR