

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.2392 of 2005

JUDGMENT:

The appellant herein is claimant in O.P.No.1318 of 2001 on the file of the Court of Motor Accident Claims Tribunal-cum-III Additional District Judge (Fast Track Court), Nizamabad (for short, Tribunal).

2. The appellant filed the said OP claiming compensation of Rs.2,00,000/- for the injuries sustained by her in a road accident that occurred on 20.06.2001. It was stated in the said OP that on 20.06.2001 when the appellant, along with others, was traveling in a jeep bearing No.AP25T 831 to Bodhan from Nizamabad, and when the jeep reached near Malapally, the driver of the jeep drove it in a rash and negligent manner and hit a standing tree on the right side of the road, as a result of which, the petitioner sustained fracture to the neck of the right femur and right clavicle and other injuries all over the body. She was immediately shifted to Government Hospital, Nizamabad for treatment. A counter was filed by respondents 1 and 2 denying the liability.

3. The Tribunal framed the following issues.

“1. Whether the accident has taken place due to rash and negligent driving of the jeep bearing No.AP25T 831 by its driver?

2. Whether the petitioner is entitled for compensation. If so to what just amount and from which of the respondents?

3. To what relief?”

4. The appellant was examined as P.W.1 and marked Exs.A.1 to A.5. The insurance policy was marked as Ex.B.1.

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 jeep. With regard to the injury, the appellant filed Ex.A.3 wound certificate issued by the Civil Assistant Surgeon of Government

Hospital, Nizamabad. As per the said certificate, the appellant sustained fracture to the neck of the right femur and right clavicle. She was admitted in Government Hospital on 20.06.2001. The Tribunal awarded an amount of Rs.7,500/- for each of the two fractures. It also awarded an amount of Rs.3,000/- towards cost of treatment, Rs.2,000/- towards extra nourishment, Rs.3,000/- towards pain and suffering and Rs.2,000/- towards transportation charges. Since there was no evidence with regard to the avocation of the injured, no amount was awarded towards loss of earnings. Thus, in all, an amount of Rs.25,000/- was awarded, by award dated 03.06.2005. Seeking enhancement of the said compensation, the present appeal is filed.

6. There is no evidence with regard to the period of hospitalization and in any event the appellant took treatment in a Government hospital. As per Ex.A.3 wound certificate, the appellant sustained two fractures and the Tribunal awarded an amount of Rs.15,000/- and the said amount shall be enhanced to Rs.30,000/-. Since it is a Government hospital, the amount of Rs.3,000/- awarded towards cost of treatment needs no enhancement. However, the amount of Rs.3,000/- towards pain and suffering should be enhanced to Rs.5,000/-. The other amounts towards extra nourishment and transportation charges, for which an amount of Rs.2,000/- each were awarded, needs no enhancement.

7. Hence, the Award of the Tribunal dated 03.06.2005 in O.P.No.1318 of 2001 is enhanced from Rs.25,000/- to Rs.42,000/-. The enhanced amount of compensation shall carry the same rate of interest @ 9% per annum from the date of petition till the date of realization.

8. 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: 19.01.2016
TJMR