

THE HON'BLE MS.JUSTICE J.UMA DEVI

M.A.C.M.A.NO.2165 OF 2005

ORDER:

The order, dated 11-06-2004, passed by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Adilabad, (for brevity 'the Tribunal'), in O.P.No.868 of 2002 is assailed by the claimant in the above mentioned O.P. contending that the compensation amount of Rs.68,575-65 ps. awarded by the Tribunal is not fair and reasonable.

2. The factual background of the case briefly stated as follows:

That on 28-01-2002 while the claimant-Odeti Rama Reddy @ V.Ram Reddy was proceeding in a jeep bearing No.AP-1-E-1220 from Bheemavaram to Chennur and when the jeep reached near Jodevagu, it was driven by the driver in a rash and negligent manner and as a result of it, the rear side tyre of the jeep was punctured. In the above mentioned accident, the claimant sustained grievous injury. The Police of Jaipur Police Station registered a case in Cr.No.10 of 2002 against the driver of the jeep bearing No.AP-1-E-1220 as the above accident took place due to his negligent act. The claimant laid a claim for Rs.1,20,000/- originally, and later got enhanced his claim to Rs.1,80,000/- from Rs.1,20,000/-by taking suitable steps in this regard.

3. The case filed by the claimant was keenly contested by the 2nd respondent-Insurance Company. It was contended by the Insurance Company in the counter that the claimant himself was negligent and due to his own negligence, he sustained injuries. It was also contended by the 2nd respondent that the driver of the offending vehicle was not having valid driving licence and that the claimant was traveling in the jeep as a 'hired passenger' and that the terms and conditions of the policy were violated by the 1st respondent

(owner of the offending vehicle) by permitting a person, who was not possessing valid and subsisting driving licence to drive the vehicle. These were the main contentions urged by the Insurance Company to dis-own its liability.

4. The Tribunal on appreciation of evidence of the claimant and the Medical Officer-Dr.R.Tirupathi Reddy, who was examined through an Advocate Commissioner and the other relevant documents namely medical bills, X ray films, treatment record, referral letter, bio-chemist report, discharge sheet, discharge bill, transportation bills and disability certificate and other material documents, had awarded compensation of Rs.68,575-65 ps. The claimant having found that the amount of Rs.68,575-65 ps awarded to him by the Tribunal towards compensation was not just and reasonable, had come up with this appeal.

5. The main contention of the appellant-claimant is that though it was stated by the Medical Officer, who was examined through an Advocate Commissioner that he assessed the disability of the claimant at 20% on account of fracture injury to left fibula and tibia, the Tribunal awarded meager compensation of Rs.68,575-65 ps. instead of awarding compensation of Rs.1,80,000/- together with interest at 9% pa., taking into consideration of the fact that he sustained fracture of left fibula and tibia, for which he had taken treatment under the care and supervision of P.W.2 and became disabled permanently and the due disability assigned by him is movements of left leg restricted. The Tribunal without proper appreciation of evidence on record had awarded a sum of Rs.15,000/- for each fracture injury and Rs.1,000/- for each simple injury sustained by the him in the accident. His contention was that the compensation awarded by the Tribunal was very meager and low and there was no justification or

rationalization as such in the assessment made by the Tribunal.

6. I have perused the order, dated 11-06-2004 passed by the Tribunal.

7. There is no dispute with regard to manner in which the accident had taken place. The F.I.R., wound certificate, attested copy of the charge sheet and the evidence given by P.W.2 would clinchingly establish the fact that the driver of the jeep bearing No.AP-1-E-1220 in which the claimant traveled on the fateful day of the incident was responsible for the accident.

8. The main grievance of the claimant is that the Tribunal without taking into consideration the evidence given by P.W.2, has awarded a sum of Rs.15,000/-for each of the fracture injury sustained by him in the accident. Since this being the main grievance of the claimant the evidence of P.W.2 needs to be appreciated thoroughly. The claimant seems to have examined by P.W.2-Dr.R.Tirupathi Reddy and under whose care and supervision, he has taken treatment for fracture of 'left fibula' and for fracture of 'lateral tibia', which injuries according to the wound certificate (Ex.A2) are 'grievous' in nature. It is clearly stated by P.W.2 in his evidence that the claimant has taken treatment in his hospital from 29-01-2002 to 07-02-2002 and he was provided with the treatment of application of *plaster of paris bandage* and was advised to take bed rest for five months. It is further stated by P.W.2 that there is limitation of movements of left knee and ankle joints and shortening is there in the leg to the extent of above 2 cms, and due to which, the claimant has become disable permanently and the disability is 20%. Ignoring this portion of evidence of P.W.2, the Tribunal seems to have awarded compensation of Rs.15,000/- for each of the fracture injury. On account of fracture to left knee and ankle joints, the

claimant is put to suffer throughout his life. The Tribunal ought to have awarded compensation of Rs.30,000/- to Rs.35,000/- under the head of loss of 'enjoyment of life' and the loss of future prospects etc., instead of awarding compensation of Rs.68,575-65 ps.

9. In view of the above, the claimant is entitled for a sum of Rs.1,00,000/- towards compensation as against Rs.68,575-65 ps. awarded by the Tribunal

10. Accordingly, this appeal is allowed in part enhancing the compensation amount from Rs.68,575-65 ps. to Rs.1,00,000/- and the enhanced compensation amount carries interest at 7.5% per annum from the date of filing of the petition till the date of realization. No order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

DATED: 21ST DAY OF APRIL, 2017.
Hsd

J.UMA DEVI, J

