

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

MACMA.No. 1199 of 2010

JUDGMENT:

This appeal is filed questioning the Order dated 17.04.2009 in O.P.No.1102 of 2005 on the file of the Motor Accidents Claims Tribunal (I Addl.District Judge) at Nizamabad, awarding a sum of Rs.15,000/- for the injuries sustained by the claimant in an accident said to have been taken place on 06.05.2003, involving his Motor Cycle bearing No.AP25-C-8959 and the Tractor bearing No.AP25-B-3184 and trolley bearing No.AAJ-3862, owned by the 1st respondent and insured by the 2nd respondent-Insurance Company.

2. Briefly stated the case of the claimant is that on the date of accident when the injured was proceeding on his motor cycle, the Tractor and Trolley driven by the 1st respondent in a rash and negligent manner dashed against his motor cycle, due to which the injured fell down and sustained several injuries. Immediately, the claimant/injured was shifted to Hospital and was treated as in-patient, where he incurred an expenditure of Rs.60,000/- towards the treatment and medicines. The respondent No.2 – Insurance Company opposed the claim.

3. During the course of trial, on behalf of the claimant, the injured/ claimant examined himself as PW-1, apart from examining PW-2, the doctor who treated him, and Exs.A-1 to A-7 and Ex.X-1

case-sheet are marked; and on behalf of the Respondents, RW-1 is examined, and Ex.B.1 – Policy Cover Note, is marked. Taking into consideration the evidence adduced, the Tribunal awarded a sum of Rs.12,000/- towards the injuries and Rs.3,000/- towards the pain and suffering and transportation, in all Rs.15,000/- as compensation. Dissatisfied with the same, the injured/ claimant has preferred the present appeal seeking enhancement of the compensation, stating that the compensation awarded by the Tribunal is inadequate.

4. Heard the learned counsel appearing for both the parties and considered the material on record.

5. The claimant/injured was examined as PW-1, who deposed about the manner in which the accident took place and the fact of his sustaining the injuries, as shown in the Wound Certificate, Ex.A-3. He claimed to have incurred an expenditure of Rs.1,00,000/- for his treatment. Even though PW-1 was elaborately cross-examined, nothing contrary has been elicited for disbelieving his claim.

In support of the evidence of PW.1, the Doctor-PW.2 deposed that he examined PW-1 on 06.05.2003 and found four injuries, mentioned in case sheet, marked as Ex.X.1. He further deposed that on the basis of Ex.A3, Wound Certificate and the

X-Ray, it can be said that the injuries 1, 3 and 4 are grievous in nature, and the other one is simple in nature.

The above evidence of PWs.1 and 2 is supported and substantiated by documentary evidence that is placed on record including, Ex.A.3 injury certificate issued by the Government Civil Hospital, Nizamabad, as per which, the claimant sustained the following injuries:

- (1) Anterior dislocation of right shoulder joint;
- (2) Contusion of lumbar spine;
- (3) Hemarthrosis of left knee joint; and
- (4) Lacerated wound over the right leg.

6. When the injured has sustained as many as three grievous injuries apart from one simple injury, and treated as in-patient nearly for a period of ten days, the amount so awarded by the Tribunal, in my opinion, is not proper and sufficient. That apart, it is clear from the oral evidence of PWs.1 and 2 that the injured was hospitalized for nearly ten days, and PW-2, the doctor, performed surgery to PW-1/injured. Therefore, it is clear that the injured/claimant has suffered considerable pain and suffering, apart from a fracture to his right shoulder and operated, and he was incapacitated considerably for a long time from performing his regular duties.

7. In that view of the matter awarding a sum of Rs.15,000/- is grossly inadequate. Therefore, taking into consideration the

nature of the injuries sustained by the claimant, the evidence of PWs. 1 and 2, which is supported by the documentary evidence produced by the injured/ claimant, I feel it is reasonable to award a sum of Rs.25,000/- in all as compensation, and therefore, the appeal is liable to be allowed in part.

8. In view of the above, the appeal is partly allowed enhancing the compensation to Rs.25,000/- (Rupees twenty five thousands only) for all counts, and the Insurance Company is directed to deposit the compensation within two weeks from the date of receipt of a copy of this judgment, together with interest at 7.5 % per annum from the date of OP till the amount is deposited. As and when the said amount is deposited, the claimant is entitled to withdraw the same forthwith, without furnishing any security.

9. In the result the appeal is partly allowed. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

M.S.K. JAISWAL, J.

June 12, 2017
Kv

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Dt. 12..06..2017

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