

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

M.A.C.M.A .No.1187 of 2010

JUDGMENT

The claimant filed this appeal against the judgment and decree dated 06.06.2008 in O.P.No.1098 of 2005 on the file of Motor Accidents Claims Tribunal (I Additional District Judge), Nizamabad.

2. The facts, in brief, are that on 09.12.2003 at about 2.00 PM., while the claimant and others were traveling in an auto bearing No.AP-25U-6310 from Golladi thanda to Basar and when it reached near Nagapur village shivar, the driver of auto drove it in a rash and negligent manner and lost control over it, as a result of which, the auto turned turtle, due to which the claimant and others sustained injuries. The claimant sustained simple and grievous injuries all over the body. Immediately, he was shifted to the hospital of Dr.L.Ramulu, wherein he underwent operations, amputation etc. He incurred an amount of Rs.60,000/-towards medical expenses and he is still undergoing treatment with private doctors. Hence, he filed the claim petition claiming compensation of Rs.1,00,000/- payable by respondents 1 and 2 being owner and insurer of the auto.

3. The first and second respondents filed counters denying the manner of accident and the nature of injuries sustained by the claimant in the accident.

4. During the course of enquiry, the claimant examined himself as P.W.1 and also examined Dr.L.Ramulu as P.W.2 and got marked

Exs.A1 to A11 and Ex.X1 was also marked. No oral or documentary evidence was adduced on behalf of respondents.

5. Upon considering the evidence on record, the Tribunal awarded compensation of Rs.45,000/- to the claimant fixing the liability on respondents 1 and 2 jointly and severally with proportionate costs and interest @ 7.5% per annum from the date of filing of petition till the date of deposit.

6. Learned counsel for appellant/claimant contended that though the claimant suffered with amputation to his little finger of left hand and fracture to middle phalange of ring finger and another fracture to his left shoulder, the Tribunal, without taking into consideration the nature of said injuries, awarded a sum of Rs.45,000/-, which is grossly inadequate. He further submits that though the claimant was earning a sum of Rs.10,000/- per month as an agriculturist and doing vegetable business, no compensation was awarded by the Tribunal towards loss of earnings. Thus, he prays to enhance the compensation granted by the Tribunal.

7. Though notices were served on respondents 1 and 2, none appeared on their behalf.

8. I have perused the entire material on record. The doctor-P.W.2 stated that the petitioner sustained the following injuries:

- (1) Crush injury to left hand with traumatic amputation
of the little finger
- (2) Fracture of middle phalange of right finger;

(3) Fracture of scapula left shoulder;

(4) Laceration over both knee joint;

The Medical Officer asserted that except laceration over both knee joint, all other injuries are grievous in nature. He stated that the claimant was hospitalized on 09.12.2003 and discharged on 22.12.2003, during which period, his little finger of left hand was amputated and was treated with fracture injuries. He further stated that though there is no percentage of disability, due to amputation, the day-to-day work of the claimant will be affected. The Tribunal, after taking into consideration all these aspects, awarded compensation of Rs.20,000/- towards amputation, Rs.10,000/-towards fracture of scapula left shoulder, Rs.5,000/-towards fracture of ring finger and Rs.4,000/- towards simple injury and Rs.1,000/- towards transportation and Rs.5,000/-towards pain and suffering and extra nourishment. Thus, in all a sum of Rs.45,000/- was awarded by Tribunal as compensation. However, the compensation awarded by Tribunal at Rs.5,000/-towards pain and suffering and extra nourishment appears to be inadequate. Since the claimant was aged about 60 years at the time of accident and he sustained three fracture injuries, it would be appropriate to enhance the compensation from Rs.5,000/- to Rs.20,000/-towards pain and suffering and extra nourishment. Thus, the compensation awarded by Tribunal is enhanced from Rs.45,000/- to Rs.60,000/- with interest at 7.5% per annum from the date of petition till realization. The order of Tribunal in all other aspects shall remain unaltered.

9. Accordingly, the appeal is allowed in part, modifying the award passed by Tribunal by enhancing the compensation from Rs.45,000/- to Rs.60,000/- with interest at 7.5% per annum from the date of petition till the date of deposit. Respondents 1 and 2 are jointly and severally liable to pay the enhanced compensation to the claimant, within a period of two months from today. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

19th June, 2017
sj

M.S.K.JAISWAL, J

