

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.1006 OF 2010

JUDGMENT:

This Motor Accident Civil Miscellaneous Appeal is arising out of the order, dated 25.01.2010, passed in O.P.No.444 of 2007 by the Chairman, Motor Vehicle Accident Claims Tribunal (Principal District Judge) at Nalgonda (for short, the Tribunal).

2. This is a claimant's appeal. The appellant filed O.P.No.444 of 2007 before the Tribunal claiming compensation of Rs.3,00,000/- against respondents 1 and 2, i.e., the owner and the insurer of the motor vehicle involved in the accident for the injuries sustained by him in a motor accident that occurred on 09.02.2007.

3. The brief facts of the case are that on 09.02.2007 while the petitioner was going on his bicycle from Konda Mallepally in Nalgonda District, and when he reached Kolemuntalapahad, one Bajaj Pulsar bearing No.AP24K 4784 was driven in a rash and negligent manner and dashed against him. He sustained grievous injuries in the accident, for which, he claimed compensation of Rs.3,00,000/- under various heads.

4. Before the Tribunal, the first respondent remained ex parte and the second respondent opposed the claim by filing its counter. The Tribunal, on consideration of oral and

documentary evidence, awarded total compensation of Rs.59,500/- i.e., Rs.25,000/- towards one grievous injury, Rs.30,000/- towards medicines and hospital expenses and Rs.4,500/- towards loss of earnings for three months. Being not satisfied with the quantum of compensation, the appellant is before this Court.

5. Heard the arguments of Smt.K.Rajitha, learned counsel for the appellant. Notices have been served to the respondents, but none appeared on their behalf.

6. The point for consideration in this matter is whether there are sufficient grounds for enhancement of compensation in this appeal?

7. Learned counsel for the appellant submitted that the compensation awarded by the Tribunal is inadequate and requested for enhancement of the compensation.

8. Before adverting to the other arguments of learned counsel for the appellant, it is appropriate to refer to the quantum of compensation awarded by the Tribunal under various heads, which are as follows:

Sl.No.	Name of the Head	Compensation awarded by the Tribunal
01.	One grievous injury	Rs.25,000/-
02.	Medicines and hospital expenses	Rs.30,000/-
03.	Loss of earnings for three months	Rs.4,500/-
TOTAL		Rs.59,500/-

9. Learned counsel for the appellant submitted that the appellant was earning Rs.3,000/- per month, whereas the Tribunal taken the income of the appellant as Rs.1,500/- per month, and requested for enhancement of the amount.

10. The petitioner is stated to be a labourer, therefore, the Tribunal ought to have taken the income of the deceased as Rs.3,000/- per month instead of Rs.1,500/- per month. The minimum wages of Rs.3,000/- per month ought to have been taken into consideration for awarding adequate compensation. Therefore, the appellant is entitled for compensation of Rs.9,000/- for three months towards loss of earnings.

11. The Tribunal awarded Rs.25,000/- towards one grievous injury. The said amount can be enhanced to Rs.50,000/- in view of the evidence of the medical officer. P.W.2 Dr.A.Masthan Reddy, Neuro Surgeon, has deposed that the appellant sustained serious head injury with glasgocoma scale 6 to 7 and his CT scan of brain shows defuse cerebral edema with left temporal contusion and the appellant was unconscious and he was treated with drugs and CR scan was repeated twice to see the condition of brain injury, which is slowly resolving over a period of time.

12. Ex.A.5 is the discharge bill issued by the Nightingale Hospital, Hyderabad for a sum of Rs.39,160/-. Ex.A.6 is the pharmacy bills for a sum of Rs.16,447/-. The Tribunal

rejected these bills only on the ground that P.W.2 did not speak in detail about those bills. But, the Tribunal marked those bills in the evidence. In the recent decision, the Apex Court in **Rekha Jain Vs. National Insurance Co Ltd.**¹, observed that the medical bills need not be proved by examining the medical officer. The medical prescriptions and pharmacy bills would themselves prove that they are being paid and the appellant incurred medical expenditures. It is made clear in the said judgment that when the respondent did not oppose the medical bills and they have not been fraudulently obtained, they are deemed to have been proved. Therefore, placing reliance on the abovesaid decision, the medical bills can be considered that they are being paid by the injured. The same proposition of law was held by this Court in **APSRTC v. Shaik Yousuf Pasha**².

13. In view of the above decision, it is not necessary to examine the medical office to prove the medical bills. The medical bills are marked in the evidence, but the insurance company has not taken any steps to disprove those bills. Therefore, the appellant is entitled for Rs.39,160/- towards discharge bill and Rs.16,447/- towards pharmacy bills.

14. On consideration of the evidence, the compensation awarded by the Tribunal is enhanced, as shown in the tabular form.

¹ 2013 ACJ 2161

² 2007(5) ALD 439

Sl.No.	Name of Head	Compensation Awarded by Tribunal	Compensation Awarded by this Court
01.	One grievous injury	Rs.25,000/-	Rs.50,000/-
02.	Medicines and hospital expenses	Rs.30,000/-	Rs.55,607/-
03.	Loss of earnings for three months	Rs.4,500/-	Rs.9,000/-
	TOTAL	Rs.59,500/-	Rs.1,14,607/-

15. In the result, the appeal is allowed in part modifying the impugned award passed by the Tribunal, by enhancing the compensation from Rs.59,500/- to Rs.1,14,607/- with subsequent interest @ 7.5% per annum from the date of petition till realisation. The respondents are directed to deposit the amount within two months from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the entire amount. There shall be no order as to costs.

16. As a sequel, miscellaneous petitions, if any, pending shall stand closed.

GUDISEVA SHYAM PRASAD, J

Date: 23.02.2017
TJMR