

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A.No.1010 of 2006

JUDGMENT:

This appeal is arising out of the decree and judgment, dated 15.09.2005 passed in O.P.No.746 of 2002 by the Motor Accidents Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Nizamabad.

The appellant is the petitioner, who filed O.P.No.746 of 2002 under Section 166(1)(a) of Motor Vehicles Act, 1988 claiming compensation of Rs.2.00 lakhs on account of the injuries sustained by him in a motor vehicle accident occurred on 07.03.2002 in Jukkal Mandal of Nizamabad District. The petitioner while going on his school was being dashed by a lorry bearing No.HE-38-B-1612 and received injuries. The Tribunal, however, on consideration of the evidence on record held that the driver of the crime lorry was responsible for the accident and awarded compensation of Rs.59,000/- for the injuries sustained by the petitioner in the accident. Aggrieved by the same, he preferred this appeal.

Heard learned counsel for the appellant. Claim against respondent No.1, the owner of the lorry was dismissed by this Court *vide* order dated 24.03.2017. Notice has been served to the 2nd respondent-National Insurance Company but none appeared on its behalf. Since the 2nd respondent was also held jointly and severally liable to pay compensation to the petitioner, this O.P. can be proceed against the 2nd respondent even though claim against 1st respondent was dismissed.

Learned counsel for the appellant submitted that the claim of compensation awarded by the Tribunal under various heads is inadequate and it requires to be enhanced. Learned counsel for the appellant referred to para 14 of the Judgment in the said O.P. with regard to the injuries suffered by the appellant in the accident, which reads as under:

“P.W.2 got examined Dr.Sanjay Singh Yadav as P.W.2 on commission, wherein he stated that on 07.03.2002 he examined P.W.1 in SVR Hospital, found following injuries:

- i) Injury to Pelvis of grievous nature leading to multiple fracture.
- ii) Rupture of urethra grievous in nature due to blunt injury.
- iii) Injury to thigh of left tissue, simple in nature.”

The testimony of P.W.2 clearly reveals that the appellant had received two grievous injuries and one simple injury. The Tribunal awarded Rs.10,000/- towards two grievous injuries and Rs.1,000/- towards one simple injury which requires enhancement.

On consideration of the evidence of P.W.2 and the nature of the injuries suffered by the petitioner and in view of the fact that he has availed medical leave for 124 days, the compensation awarded by the Tribunal is enhanced as shown in the following tabular form:

S.No.	Name of Head	Compensation awarded by the Tribunal	Compensation enhanced
1.	Two grievous injuries	Rs.10,000/-	Rs. 50,000/-
2.	One simple injury	Rs. 1,000/-	Rs. 5,000/-
3.	Medical bills	Rs.22,000/-	Rs. 22,000/-
4.	Loss of earnings for two months	Rs.16,000/-	Rs. 16,000/-
5.	Pain and suffering	Rs. 5,000/-	Rs. 20,000/-
	Total	Rs.59,000/-	Rs.1,23,000/-

In the result, the appeal is partly allowed modifying the compensation awarded by the Tribunal from Rs.59,000/- to Rs.1,23,000/- with proportionate costs and interest at 7.5% per annum from the date of petition till the date of realisation. The 2nd respondent is directed to deposit the amount within one month from the date of receipt of a copy of this order. On such deposit, the appellant is directed to withdraw the entire amount. No costs.

Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

Date : 24.10.2017
ssp

