

HON'BLE SMT. JUSTICE T. RAJANI

M.A.C.M.A. No.2177 of 2006

JUDGMENT :

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 is preferred by the appellant/petitioner assailing the order and decree dated 24.07.2006 in O.P.No.720 of 2002 passed by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Adilabad, Adilabad District (for brevity "the Tribunal"), on the grounds – that the compensation awarded by the Tribunal is very low and is not adequate to the loss caused by the injuries sustained by the appellant/petitioner.

2. Heard the arguments of the learned counsel for appellant/petitioner. While the appeal against 1st respondent – owner of the offending Jeep bearing No.AP-1T-5775 was dismissed for default as per the order of the Court dated 05.07.2016, none appeared for the 2nd respondent – National Insurance Company Limited. Perused the material available on record.

3. At the hearing, learned counsel for the appellant/petitioner contends that the Tribunal awarded a meager compensation of Rs.7,000/- only as against the claim of Rs.75,000/- made by the appellant/petitioner. A perusal of the impugned order dated 24.07.2006 passed by the Tribunal

shows that though two fracture injuries were sustained by the appellant/petitioner, as spoken to by P.W.2 – Doctor, who is a Orthopedic Surgeon working for Priya Nursing Home, Nirmal, where the appellant/petitioner was treated, it awarded only Rs.5,000/- towards pain and suffering sustained by the appellant/petitioner. One injury is fracture of shaft of right femur and the other is open fracture of upper end of right tibia and both are grievous in nature. Therefore, this Court is of the considered opinion that the amount of Rs.5,000/- awarded by the Tribunal towards pain and suffering is very low and hence the same is enhanced to Rs.20,000/-. Further, the Tribunal, even after discussing about Ex.A.6 – Bunch of Medical Bills for Rs.12,276/-, did not award the said amount and instead it awarded only Rs.2,000/- towards medical expenses without assigning any reasons for not accepting the amount covered by Ex.A.6 – Medical Bills. The genuineness of Ex.A.6 is not assailed by the 2nd respondent – Insurer and, therefore, it is just and reasonable to award the amount of Rs.12,276/- covered by Ex.A.6 and the same is awarded under the head ‘Medical Expenses’.

4. Apart from the above, taking into consideration the fact that the appellant/petitioner sustained fracture injury to his leg and that he requires special transportation, a sum of Rs.5,000/- is awarded towards transportation charges.

5. Further, the appellant/petitioner is stated to be an agriculturist by profession and aged about 39 years. Hence, taking his income at Rs.3,000/- per month and considering that he might have been unable to work at least for two months, Rs.6,000/- (Rs.3,000/- x 2 = Rs.6,000/-) is awarded towards loss of income during the period of treatment, rest and recovery. Hence, in all, the appellant/petitioner is entitled to a compensation of Rs.43,276./- (Rs.20,000/- + Rs.12,276/- + Rs.5,000/- + Rs.6,000/-), which is rounded off to Rs.44,000/-.

6. Accordingly, the Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.7,000/- to Rs.44,000/- (Rupees forty four thousand only). In all other aspects, the order and decree passed by the Tribunal shall remain unaltered. Proportionate costs are ordered.

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

JUSTICE T. RAJANI

02.06.2017.
Msr

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