

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.M.A.No.3056 OF 2004

JUDGMENT:

This appeal is filed against the Award, dated 05.03.2004, passed in O.P.No.1016 of 1999 by the Motor Accident Claims Tribunal, Nizamabad (in short "the Tribunal").

The claimant before the Tribunal is the appellant herein.

As per the claim filed by the appellant, the brief facts are that on 20.01.199 at 4.45 p.m., the Auto bearing No. AP 12/T-9174 was involved in an accident and in that process, the appellant suffered injuries to the head, fracture of right hand and other parts of the body. The Tribunal on appreciation of evidence, found that the accident was occurred and also found that the clamant-appellant was hospitalised and treated for 20 days in Gandhi Medical Hospital, Hyderabad. In the evidence, it has come out that the appellant was operated and a steel rod was inserted with 25 sutures. He was a young man of 25 years. As against the claim of Rs.1,00,000/- with 24% interest, a sum of RS.45,000/-, on different heads, was granted to the appellant. Not satisfied with the amount granted, seeking enhancement, the present Appeal is filed.

It is contended by the learned counsel for the appellant that the Tribunal had failed to appreciate Ex. A7 disability certificate issued by the Doctor, wherein the appellant was found to have suffered a disability of 50%. Further, the Court below failed to grant just compensation both on account of transportation to hospital and other expenditure involved in getting treatment for 20 days at Hyderabad in Gandhi Hospital.

On the other hand, learned Standing Counsel appearing for the respondent-insurance company submits that Ex.A7-Disability Certificate was rightly rejected by the Tribunal as the same is of the year 2000, whereas, the accident has occurred in the year 1999 and further in the evidence of the Doctor, who was examined in relation to Exs.A3 and A7, it was elicited that the Doctor had failed to examine the patient with respect to the injury and further he had also not called for any X-ray before giving a certificate with regard to 50% disability and in those circumstances, the Tribunal had ignored the evidence of the doctor with respect to the disability. Further, learned Standing Counsel would assert that compensation as awarded is just and proper and there is no requirement of enhancement of compensation and thus opposing the same.

Considered the respective submissions and perused the material on record. As is evident, occurrence of the accident and further suffering of the injury by the appellant is not in dispute. As a matter of fact, the Court below had found that the accident had occurred in Nizamabad and initially the appellant had taken treatment at Nizamabad and thereafter, on the advice of the doctor he was shifted to Hyderabad on account of non-availability of expert doctor at Nizamabad to treat the head injury. It is on record that the claimant had undergone treatment at Gandhi Hospital and, in fact, he was hospitalised for about 20 days, in addition to undergoing surgery in relation to the fracture, wherein a steel rod was inserted and sutures were administered. This part of the evidence is not discredited, thereby confirming the stay of the appellant at Hyderabad for 20 days. It is reasonable to presume that an uneducated person coming from Nizamabad and getting admission in Gandhi Hospital, Hyderabad, would have again taken at least 2 to 3 days more. In that

process and also considering the nature of the injuries suffered, the appellant also would have incurred expenditure to his attendant. The nature of injuries being such that there was no possibility for the patient to travel to Hyderabad and return to his place in public transport. In all, under the head of transport and nourishment the Court below had granted Rs.5,000/- only. In the opinion of this Court, the said amount is inadequate and a reasonable estimate would be another Rs.5000/-, considering that the accident was in the year 1999 and treatment was in 2000. It may also be noted that the appellant was not granted any money with respect to the future treatment, as the very nature of the injuries suffered by him and insertion of a steel rod, would require some periodical review by the doctors. As the surgery had taken place at Hyderabad necessarily the patient had to travel to Hyderabad for the periodical review of his condition. On this account, at least, a sum of Rs.5,000/- is need to be provided for the appellant.

Further, a sum of Rs.10,000/- was awarded towards loss of earnings. It is not in dispute that the appellant was of 25 years age and initially, he claimed to be doing business, thereafter, he claimed that he was working as a welder. However, there was no evidence which has been brought before the Court, and Tribunal had taken Rs.10,000/- under the loss of earnings for the two months period. Even if there is no concrete material of earning, it cannot be presumed that a youngster of 25 year-old would be sitting idle without doing any work. In those circumstances, it would be reasonable to enhance the same by another Rs.5,000/-, making it as Rs.15,000/- as loss of earning for 2 months. It is on record that the appellant had to stay at Hyderabad for 20 days and under the head both inclusive of nourishment and transport, Rs.5,000/- was granted.

This Court had come to the conclusion that for the transport itself, the appellant would have incurred a minimum of Rs.5,000/- on each trip, leaving about the amount towards nourishment. In those circumstances, considering the fact that the appellant needs an individual to support him, apart from providing for nourishment for himself, a sum of Rs.20,000/- for 20 days would be reasonable.

In those circumstances, the appellant shall be entitled to the compensation amount of Rs.80,000/- granted under different heads. The particulars are as under.

S.No.	Description of the Head	Granted by the Tribunal	Enhanced amount
01	Fracture Injury	20,000-00	20,000-00
02	Pain and Suffering	10,000-00	10,000-00
03	Transportation		10,000-00
04	Nourishment to both (Patient and Attendant)	5,000-00	20,000-00
05	Loss of earnings	10,000-00	15,000-00
06	Future Treatment	--	5,000-00
	TOTAL	45,000-00	80,000-00

However, with respect to the interest, the lower Court had granted interest at the rate of 9%, as it is the practice of the Court to grant only 7.5% interest, the same is scaled down to 7.5% per annum.

Subject to the above the appeal is partly allowed. There shall be no order as to costs.

Miscellaneous Petitions, pending if any, in this Appeal shall stand closed.

CHALLA KODANDA RAM, J

Dated:13.12.2017.

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