

HON'BLE SRI JUSTICE M.S.K.JAI SWAL

M.A.C.M.A.No.1109 of 2010

JUDGMENT:

The appellant is the injured. He filed the appeal questioning the award passed by the learned Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge (FTC), Parvatipuram (for short 'the Tribunal') in M.V.O.P.No.593/2007, dated 23.03.2010, by and under which the Tribunal awarded a sum of Rs.73,000/- as against the claim of Rs.1,50,000/-

Briefly the case of the appellant is that on 26.12.2006 the claimant and others engaged a Jeep bearing registration No.AP35T-9253 to proceed to Chollapadam from Parvathipuram and when the said Jeep reached Chollapadam railway gate, at about 4.30 p.m, the 1st respondent driver drove the Jeep in a rash and negligent manner with high speed and crossed over the speed breakers, due to which, the claimant fell down from the Jeep and sustained grievous injuries. He was aged about 34 years and working as a Supervisor in Maruthi Ram Diary and getting salary of Rs.4,000/- per month by the time of accident. The 1st respondent is the driver, 2nd respondent is the owner of the offending vehicle and the 3rd respondent is the insurer.

On behalf of the claimant PWs 1 to 3 were examined and Exs.A1 to A8 were marked. On behalf of the respondents, no oral evidence was adduced, but the insurance policy was marked as Ex.B1.

The Tribunal, after taking into consideration the oral and documentary evidence, determined the compensation at Rs.73,000/- together with interest @6% p.a.

The learned counsel for the appellant submits that the amount awarded by the Tribunal is grossly inadequate and even though the claimant spent Rs.42,732/- towards medical expenses, but the Tribunal awarded only Rs.20,000/-, that the Tribunal granted lesser interest @6% p.a. instead of

@7.5% p.a. and hence it is a fit case where the amount of compensation to be enhanced.

The learned counsel for the insurance company submits that the appellant sustained one grievous injury and one simple injury, for which the Tribunal determined the compensation based on the evidence available on record, which is just and reasonable and does not warrant any enhancement.

Heard both sides and perused the material on record.

The factum of accident involving the vehicle, the date, time and place, and the fact of crime vehicle being insured with the 3rd respondent-insurance company are not in dispute. Similarly, the liability that is fastened on the respondents jointly and severally is also not challenged. The only claim of the appellant is that though he sustained fracture on left libia and other injuries, the Tribunal has not awarded just and reasonable compensation and only awarded a compensation of Rs.73,000/- as against the claim of Rs.1,50,000/-

Upon carefully perusing the oral and documentary evidence on record and also the impugned award, it is noticed that the Tribunal has taken into consideration the evidence of PWs 2 & 3-the medical officers and awarded a sum of Rs.20,000/- towards medical expenses, Rs.5,000/- towards pain and suffering and Rs.48,000/- towards permanent disability, in all awarded a compensation of Rs.73,000/-, which cannot be said to be in any way inadequate or unjust, and hence there are no grounds to enhance the same. However, it is observed that the Tribunal awarded interest @6% p.a. on the compensation amount, but it should be @7.5% p.a.

Subject to the above modification, the MACMA is allowed in part. The respondents, within a period of two months from today, shall deposit the compensation amount together with proportionate costs and interest thereon

@7.5% p.a. from the date of petition till the date of realization. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

M.S.K.JAI SWAL, J

Date: 19th June, 2017
Dsr

