

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

MACMA No.1325 of 2010

JUDGMENT:

The appellant is claimant in O.P.No.85 of 1993 on the file of the learned Chairman, Motor Accidents Claims Tribunal-cum-II Additional Chief Judge, City Civil Courts, Hyderabad (for short "the Tribunal"). He sustained injuries in an accident that took place on 06.09.1992 involving the RTC bus bearing registration No.AAZ-1142. Originally, the claimant claimed compensation of Rs.1,00,000/- for the injuries sustained by him and subsequently, the same was enhanced to Rs.3,00,000/-. The O.P. came to be disposed of by the Tribunal, awarding compensation of Rs.60,000/- originally. The injured preferred CMA No.2272/2000, and vide judgment dated 14.02.2007, this Court set aside the award of the Tribunal, dated 05.10.1994 and remanded the matter back to the Tribunal for fresh consideration. Thereafter, the two Medical Officers, who treated the injured, have been examined as PWs 3 & 4, and after taking into consideration the evidence on record, the Tribunal, vide order, dated 05.11.2009, awarded a compensation of Rs.78,000/-, i.e., instead of Rs.60,000/- the same was enhanced to Rs.78,000/-. In arriving at the said figure, the Tribunal has taken the disability of the injured at 20% even though the Medical Officer, who treated the injured has deposed that the disability suffered by the injured is 35%.

The learned counsel for the appellant submits that the Tribunal erred in scaling down the disability from 35% to 20% and having done that the Tribunal has erred in not taking into consideration the notional income of the young boy, aged about 19 years, who was studying Intermediate, at Rs.15,000/- per annum, as per the Second Schedule. If

the proper amount of notional income is taken and the multiplier '18' is applied, the total amount under this head would come to Rs.54,000/-, but the Tribunal erroneously awarded a sum of Rs.25,000/- for the disability.

There is no dispute about the fact that the injured/claimant was a student, studying Intermediate in the year 1992 when he met with the accident, which resulted in a crush injury to his left hand. The Medical Officer deposed that in view of crush injury, the injured suffered permanent disability 35% and the injured is not able to use his left hand for lifting any objects.

Having carefully perused the evidence on record, I feel that the Tribunal erred in awarding only Rs.25,000/- towards permanent disability while accepting the fact that the injured has suffered 20% disability. For a student, aged 19 years, the notional income @Rs.15,000/- per year has to be taken into consideration and proper multiplier for the said age group is '18', and if the same is adopted, the amount of compensation under this head would come to Rs.54,000/- ($\text{Rs.15,000/-} \times 18 \times 20/100$). Therefore, the injured/claimant is entitled to Rs.54,000/- under this head, but not Rs.25,000/- as awarded by the Tribunal. For the rest of the amount awarded under other heads, I see no reason to interfere with and the same are liable to be confirmed.

In the result, the MACMA is allowed in part, awarding a compensation of Rs.1,07,000/- instead of Rs.78,000/- as awarded by the Tribunal. The appellant/claimant is entitled to interest @7.5% on the enhanced amount of compensation of Rs.29,000/- from the date of claim petition till the date of realization. The respondent shall deposit the said amount within a period of two months from the date of receipt of a copy of this order. No order as to costs.

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

M.S.K.JAI SWAL,J

Date: 12.06.2017
Dsr

