

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No. 906 of 2010

JUDGMENT:

This appeal is arising out of the order and decree dated 18.02.2010 passed in O.P.No.65 of 2009, on the file of the Motor Accidents Claims Tribunal, by the Court of VI Additional District & Sessions Judge, Markapur. The appellant herein is the petitioner in the said Original Petition filed under Section 163-A and 168 of the Motor Vehicles Act, claiming compensation of Rs.1,50,000/- on account of the injuries suffered by her in a motor vehicle accident that occurred on 01.07.2006.

2. Brief facts of the case are that on 01.07.2006, while the petitioner was returning from Kanigiri to her village Peda Alavalapadu of Peda Cherlopalli mandal, in an auto bearing No. AP-27V-7383 and reached near Sattu on Kanigiri-Kandukuru road, the auto trolley bearing No.AP-27V-7504 came in opposite direction at high speed and dashed to the auto, in which the petitioner was traveling. As a result, the petitioner sustained injuries, and was taken to Government Hospital, Kanigiri and from there to Government Hospital, Ongole, and from there to Adarsha Orthopedic Hospital in Ongole for treatment of fracture of her right leg patella and knee. She took treatment as inpatient from 01.07.2006 to 11.07.2006. She had undergone an operation to her right leg fracture. She suffered 10% disability due to the injury. She was unable to stand or sit for long time and unable to do her household activities after the accident, due to the injury suffered by her. Alleging that the accident occurred due to the rash and negligent driving by

the driver of the auto bearing No.AP-27V-7504, the appellant filed the aforesaid claim petition seeking compensation of Rs.1,50,000/- against respondents 1 and 2, who are owner and insurer, respectively, of the crime auto.

3. The 1st respondent-owner of the crime auto filed his written statement denying the allegations in the claim petition and contended that the accident occurred due to the rash and negligent driving by the driver of the auto bearing No.AP-27V-7383. While contending that the compensation claimed is highly excessive, the 1st respondent further contended that his auto is insured with the 2nd respondent and, therefore, the 2nd respondent is liable to pay the compensation, if any, to the appellant.

4. The 2nd respondent-insurer filed its written statement denying the allegations made in the claim petition and contended that the driver of the 1st respondent has no valid driving licence.

5. The Tribunal, on consideration of the evidence available on record, awarded compensation of Rs.42,500/- with interest at 8% per annum, making the respondents 1 and 2 jointly and severally liable to pay the compensation. Being aggrieved by the quantum of compensation and seeking enhancement, the appellant-claimant filed this appeal.

6. Heard Sri Nutalapati Krishna Murthy, counsel for the appellant. None appeared for the respondents inspite of service of notice.

7. Learned counsel for the appellant contends that the Tribunal has not correctly calculated the compensation for the 10% disability suffered by the appellant. He submits that the Tribunal went wrong in taking the income of

the appellant as Rs.1,500/- per month though there are decisions to the effect that the income of a housewife should be taken at a minimum of Rs.3,000/- per month.

8. It is pertinent to note that, time and again, in several decisions rendered by the apex Court, the minimum income of the house-wife was taken as Rs.3,000/- per month. So, taking the income of the appellant at Rs.3,000/- per month, her contribution to her family would be Rs.36,000/-. As per the judgment rendered by the apex Court in **Sarla Verma and Ors. V. Delhi Transport Corporation and Anr**¹, the multiplier applicable to the age of the appellant, who was 44 year old at the time of accident, is '15', and therefore applying the multiplier '15', her future earnings would come to Rs.5,40,000/-. As the appellant suffered 10% disability, the loss of future earnings would be Rs.54,000/-.

9. Therefore, the compensation of Rs.22,500/- awarded by the Tribunal for 10% disability is enhanced to Rs.54,000/-. The Tribunal has awarded Rs.20,000/- for medical expenditure and the same does not need interference. The Tribunal has not awarded compensation for attendant charges, extra nourishment and transport, and therefore, an amount of Rs.15,000/- is awarded under those Heads.

10. In the result, the appeal is partly allowed, by enhancing the compensation awarded by the Tribunal from Rs.42,500/- to Rs.89,000/-, with proportionate costs and interest at 7.5% per annum from the date of petition till realization. The respondents are directed to deposit the

¹ (2009) 6 SCC 121

compensation within two months from the date of receipt of a copy of this order and, on such deposit, the appellant is permitted to withdraw the entire amount. No costs. Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

08th February, 2017
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