

HONOURABLE SRI JUSTICE G.SHYAM PRASAD

M.A.C.M.A.No.2236 OF 2006

JUDGMENT:

This appeal is arising out of the order dated 28th July, 2006 passed in O.P.No.661 of 2002 by the Motor Vehicle Accident Claims Tribunal-cum-I Additional District Judge, Adilabad. (For short, “the tribunal”).

The tribunal awarded a compensation of Rs.18,000/- on account of the injuries sustained by the appellant in a motor vehicle accident as against the claim of compensation of Rs.1,25,000/-. Being aggrieved by the quantum of compensation, this appeal has been preferred by the appellant-petitioner for enhancement of compensation.

The point for consideration in this matter is whether the appellant is entitled for enhancement of compensation?

The brief facts of the petition filed before the tribunal are that on 16-2-2002, while the appellant was proceeding on Yamaha motorcycle bearing No.A.P.1-C-5600 as pillion rider from Nirmal to Waddial village, when the rider of the motorcycle applied sudden break to avoid collision with the buffaloes going across the road, the accident occurred. The appellant fell down from the motorcycle and received fractures and other injuries. He was shifted to Dr.D.Vijaya Sharma hospital for treatment. Thereafter, he was treated in Vijayalaxmi Saraswathi Dental Clinic, for his dental injuries. He was referred to Priya Nursing Home, Nirmal where he had undertaken

treatment for Fracture. Thereafter, he was treated as inpatient in Sai Vani Hospital, Hyderabad where he had undertaken surgical operation to mandible, maxilla under the supervision of Dr.D.Vijaya Sharma at Nirmal. He had also taken treatment in Nirmal under the supervision of Dr.D.Vijay Sharma for his injuries. He had incurred medical and other expenses of Rs.50,000/-. The police, Nirmal registered a case in Crime No.7 of 2002 under Sections 337 and 338 of I.P.C. against a rider of the motor cycle.

On consideration of evidence, tribunal held that the accident occurred due to rash and negligent driving of the driver of the motor cycle and held the first respondent-owner of the motor cycle and second respondent the insurer of the motor cycle liable for the payment of compensation of Rs.18,000/-.

The appellant having dissatisfied with the quantum of compensation had preferred this appeal.

Heard the learned counsel for the appellant. No arguments are advanced on behalf of respondent No.2 though notice has been served to the second respondent-New India Assurance Company. The claim against R.1 was dismissed for default vide order dated 5-7-2016.

The learned counsel for the appellant mainly submitted that the tribunal has awarded a very meager amount of compensation for the injuries sustained by the appellant. The tribunal awarded

Rs.15,000/- for one grievous injury and two simple injuries and Rs.3,000/- towards medical expenses.

The compensation Rs.15,000/- awarded for injuries is enhanced to Rs.35,000/-. Medical expenses awarded by tribunal Rs.3,000/- does not require any interference.

It is further submitted that the tribunal has not awarded any amount towards loss of earnings during the period of treatment, and subsequent period of two months, and not awarded any expenses for transport and extra nourishment.

It is obvious that the tribunal has not awarded any compensation for his loss of earnings, transport, extra nourishment and attendant charges. The tribunal held clearly that the accident is proved. The rash and negligence on the part of the driver of the crime vehicle and the liability of the respondent Nos.1 and 2 is proved. Having held that they are liable to pay compensation, the tribunal did not award adequate compensation under various heads as stated above. Therefore, an amount of Rs.6,000/- towards loss of earnings for 2 months, Rs.2,000/- towards attendant charges, Rs.2,000/- towards transport charges and Rs.5,000/- extra nourishment (Total Rs.15,000/-) are granted to the appellant.

In the result, the appeal is allowed in part modifying the impugned order of the tribunal, by enhancing the compensation awarded by the tribunal from Rs.18,000/- to Rs.53,000/- with subsequent interest, at the rate of 7.5% p.a., from the date of petition

till realization. If any amount is paid under no fault liability, that amount has to be excluded from the amount. The amount shall be deposited by the respondents within two months, from the date of receipt of a copy of this judgment. The appellant is directed to withdraw the entire amount, after expiry of the appeal time.

As a sequel to the disposal of this appeal, the Miscellaneous Petitions, if any, pending, shall stand closed.

JUSTICE G.SHYAM PRASAD

Dated 18-1-2017.

Dvs.



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