

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

M.A.C.M.A.No.54 of 2006

JUDGMENT:

This appeal is arising out of the Order and Decree dated 13.08.2004 in O.P.No.1596 of 2001 on the file of Motor Accident Claims Tribunal-cum-V Additional Chief Judge, City Civil Court, Hyderabad.

2. The appellant is the petitioner filed the claim petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.1,00,000/- on account of the injuries sustained by him in the motor vehicle accident.

3. Brief facts of the case are that on 04-04-2001 at about 3.00 P.M while the petitioner was going on his cycle, a lorry bearing No.APO 2948 driven by its driver in a rash and negligent manner dashed against the petitioner near Yousufan Colony, Baba Nagar, Hyderabad, as a result of which, he sustained injuries in the said accident. The petitioner had made a claim for Rs.1,00,000/- against the first respondent, who is the owner of the vehicle and second respondent-Insurance Company.

4. The Tribunal, on consideration of the evidence available on record, awarded compensation of Rs.6,500/- with proportionate costs and interest at 9% per annum from the date of petition till date of realisation. Aggrieved

by the quantum of compensation, the petitioner filed this appeal for enhancement of compensation.

5. Heard arguments of Sri C.Buchi Reddy, learned counsel for the appellant/petitioner and Sri Naresh Byrapaneni, learned Standing Counsel for the second respondent-United India Insurance Company Limited. The case against first respondent is dismissed, vide court order dated 24-03-2017. Perused the material evidence available on record.

6. On behalf of the petitioner Pws.1 to 3 were examined and marked Exs.A-1 to A-5 and on behalf of the respondents no one was examined but Ex.B-1 CC of policy was marked.

7. The point for consideration in this appeal is –
Whether the appellant-claimant is entitled to enhancement of compensation?

8. Learned counsel for the appellant-petitioner contended that the Tribunal erred in granting meager amount of compensation of Rs.6,500/- as against the claim for Rs.1,00,000/-. Further, it is contended that the petitioner has suffered three injuries and he had undergone treatment for about 11 days in the hospital and incurred huge medical expenditure. But, the Tribunal without considering these aspects has awarded only meager

amount of Rs.6,500/-. Therefore, the learned counsel for the appellant/petitioner prays to enhance the compensation amount.

9. Learned counsel for second respondent submitted that the Tribunal after taking into consideration of evidence and other material available on record has granted reasonable compensation.

10. Father of the petitioner was examined as PW.1. PW.2 is the petitioner and PW.3 is the Doctor who treated the petitioner. There is no dispute with regard to the facts of the case and with regard to liability of the insurer. Since this appeal has been preferred by the appellant/petitioner for enhancement of compensation, the only point to be considered in this appeal is whether the Tribunal awarded adequate compensation to the appellant-petitioner. Ex.A-3 is the CC of medico legal record, Ex.A-4 is discharge ticket of Osmania General Hospital. PW.3 is the Medical Officer attached to the Osmania General Hospital. According to his evidence, appellant received lacerated injury on his right leg and back of thigh and they are simple in nature. Ex.A-4 is the discharge certificate, which shows that he had taken treatment as an inpatient in Osmania General Hospital from 04-04-2001 to 14-04-2001. The Tribunal on consideration of the evidence available on record has awarded

compensation of Rs.5,000/- towards for pain and suffering, Rs.1000/- for extra nourishment and Rs.500/- for transportation. In total, granted an amount of Rs.6,500/- on considering the nature of injuries suffered by the appellant. It is pertinent to note that though the injuries suffered by the appellant are simple in nature, the Tribunal ought to have awarded some more compensation in this matter. Therefore, on consideration of the evidence on record, ends of justice would be met if a few compensation is granted to the appellant.

11. Therefore, keeping in view the ratio laid down by the Hon'ble Supreme Court in the case of Reshma Kumari v. Madan Mohan¹, and Nagappa v. Gurudayal Singh², the appellant is entitled to a just and reasonable compensation, as shown in the tabular format.

Head	Compensation awarded by the Tribunal	Compensation enhanced
Pain & Suffering	Rs.5,000/-	Rs.15,000/-
Extra nourishment	Rs.1,000/-	Rs. 5,000/-
Transportation	Rs.500/-	Rs.2,000/-
Total	Rs.6,500/ -	Rs.22,000

¹ 2013 ACJ 1253 = (2009) 13 SCC 422

² AIR 2003 SC 674

12. In the result, the appeal is allowed, by modifying the award passed by the Tribunal, enhancing the compensation from Rs.6,500/- to Rs.22,000/- with proportionate costs and interest at 9% per annum from the date of petition till realization. Respondents are directed to deposit the enhanced amount within two months from the date of receipt of a copy of this judgment and on such deposit the appellant is entitled to withdraw the same without furnishing any security. No costs. Miscellaneous petitions, if any pending shall stand closed.

GUDI SEVA SHYAM PRASAD, J

Date: 08-09-2017
TSNR

