

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHARA PRADESH

* * *

M.A.C.M.A.No.266 of 2006

Between:

Yedama Laxma Reddy

..... Appellant

And

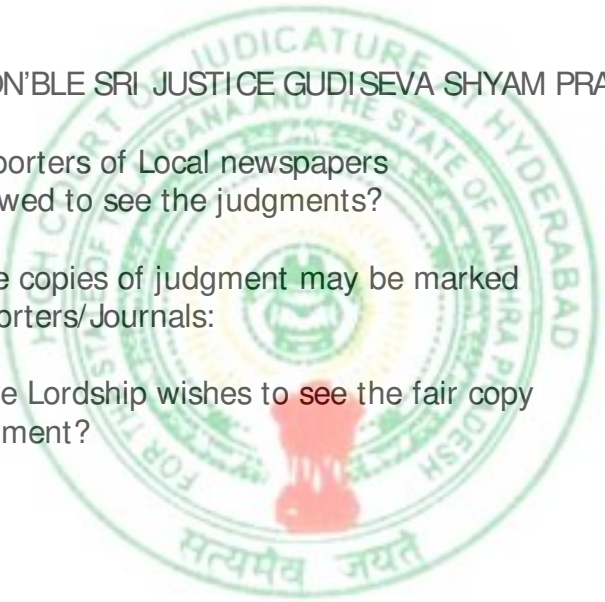
Panasa Buchaiah and another

..... Respondents

Date of Judgment pronounced on : 05.10.2017

HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

1. Whether Reporters of Local newspapers
May be allowed to see the judgments? : Yes/No
2. Whether the copies of judgment may be marked
to Law Reporters/Journals: : Yes/No
3. Whether The Lordship wishes to see the fair copy
Of the Judgment? : Yes/No



HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

M.A.C.M.A.No.266 OF 2006

% 05-10-2017

Yedama Laxma Reddy

..... Appellant

Versus

\$ Panasa Buchaiah and another

... Respondents

< GIST:

> HEAD NOTE:

!Counsel for the appellant : Sri Chalakani Venkat Yadav

^ Counsel for the respondents : Smt. S.A.V. Ratnam,
SC for R.2

? Cases referred



HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**M.A.C.M.A. No.266 of 2006****JUDGMENT :**

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is preferred by the appellant-petitioner seeking enhancement of compensation challenging the order and decree dated 25.10.2004 in O.P.No.159 of 2004 (old O.P.No.1477 of 2002) passed by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Suryapet, Nalgonda District (for brevity "the Tribunal"), awarding compensation of Rs.35,000/- as against the claim of Rs.1,00,000/- laid by him under Section 166 of the Act, for the injuries sustained by him in a motor accident that occurred on 18.09.2002.

2. The brief facts of the case are that on 18.09.2002 at about 11.30 a.m., while the appellant was proceeding on his Hero Honda Motor Cycle bearing No.AP-24G-6875 with his friend from Khammam Cross Road to Lorry Association Office and when they reached just opposite to Fuse Call Office, Kodad Town, one Auto bearing No.AP-24U-8102 of respondent No.1 came in a rash and negligent manner with high speed driven by its driver and dashed the said motor cycle, as a result of which the appellant sustained grievous injuries and fractures. On report about the accident, the

Police of Kodad Town P.S. registered a case in Crime No.140/2002 for the offence punishable under Section 338 IPC against respondent No.1 – Owner of the Auto. The appellant filed the aforesaid O.P.No.159 of 2004 claiming compensation of Rs.1,00,000/- for the injuries sustained by him in the said accident against respondent Nos.1 and 2, who are owner and insurer, respectively, of the crime Auto.

3. Before the Tribunal, respondent No.1 – owner of the crime Auto was set exparte and respondent No.2 – Oriental Insurance Company Limited (insurer) filed its counter denying the allegations made in the claim petition. On consideration of the evidence of P.W.1 and the documentary evidence under Exs.A.1 to A.8 filed on behalf of the appellant-petitioner, and Ex.B.1 – True copy of Insurance Policy filed on behalf of the 2nd respondent - insurer, by order and decree dated 25.10.2004, the Tribunal awarded a compensation of Rs.35,000/- under various heads with interest @ 9% per annum from the date of the petition till realization fixing liability against respondent Nos.1 and 2. Aggrieved by the same, the appellant-petitioner has preferred the present appeal seeking enhancement of compensation.

4. Heard Sri Chalakani Venkat Yadav, learned counsel for the appellant-petitioner, as well as Smt. S.A.V. Ratnam, learned Standing Counsel for respondent No.2 – Insurer.

Perused the order under challenge and also the evidence on record.

5. Learned counsel for the appellant submits that the Tribunal has not awarded adequate compensation and hence the compensation is required to be enhanced. He would further submit that though the appellant had suffered grievous injury to his left femur, which is evident from Ex.A.2 – Certified copy of Injury Certificate dated 18.09.2002, and filed Ex.A.6 – Bunch of Medical Bills worth Rs.39,000/-, the Tribunal has granted only Rs.21,000/- towards medical expenses. The learned counsel also submits that the Tribunal has awarded Rs.5,000/- towards pain and suffering, which is required to be enhanced. It is further argued that the income of the appellant was taken as Rs.1,500/- per month for the purpose of calculation of loss of earnings and accordingly awarded Rs.9,000/- only, which is required to be enhanced.

6. On the other hand, learned Standing Counsel for the 2nd respondent – insurer submits that the compensation awarded by the Tribunal is adequate and that the rate of interest awarded by the Tribunal @ 9% per annum is also on higher side and hence the impugned order does not require any interference.

7. On consideration of the arguments advanced by the learned counsel for the respective parties and also the

evidence available on record, there is no dispute with regard to causing of the accident and the only issue to be decided in this appeal is regarding adequacy of compensation awarded by the Tribunal.

8. The Tribunal in para-7 of its order had clearly observed with regard to the nature of injuries sustained by the appellant and the suffering undergone by him as follows:

“..... Since the petitioner sustained grievous injury i.e., left femur, he might have been bed ridden for a longer period.”

It is pertinent to note that the appellant is working as a private Typist and he has suffered a grievous injury to his left femur. Therefore, the compensation of Rs.5,000/- awarded by the Tribunal towards pain and suffering is enhanced to Rs.30,000/-. Further, the Tribunal has not assigned any reasons for not considering the bunch of Medical Bills worth Rs.39,000/- filed by the appellant, except stating that the Medical Officer was not examined. The reasoning assigned by the Tribunal in awarding Rs.21,000/- as against the Medical Bills of worth Rs.39,000/- appears to be arbitrary. I do not see any valid reason in disallowing the said Medical Bills, for the reason that even as per the finding of the Tribunal, the appellant had received a grievous injury to his left femur and was bed-ridden for about six months. Therefore, the Medical Bills worth Rs.39,000/- is granted.

9. Further, the Tribunal has taken into consideration the notional income of the appellant as Rs.1,500/- per month, which appears to be on lower side. Therefore, the same is enhanced to Rs.3,000/- per month and for 6 months, it comes to Rs.18,000/- towards loss of earnings.

10. Thus the compensation awarded by the Tribunal under various heads is now enhanced as mentioned below:

Compensation towards	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.
1. Pain and suffering	5,000.00	30,000.00
2. Medical Bills	21,000.00	39,000.00
3. Loss of earnings for six months	9,000.00	18,000.00
TOTAL :	35,000.00	87,000.00

11. In the result, the Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.35,000/- to Rs.87,000/- (Rupees eighty seven thousand only) with proportionate costs and interest @ 9% per annum on the enhanced amount also from the date of petition till the date of realization. Respondent Nos.1 and 2 are jointly and severally held liable to pay compensation and they are directed to deposit the compensation amount within one month from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the entire amount of compensation. No order as to costs.

12. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

GUDISEVA SHYAM PRASAD, J

05.10.2017.

NOTE: L.R. Copy be marked.
(B/O)
Msr



HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.266 of 2006



05.10.2017
Msr