

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.239 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/claimant seeking enhancement of compensation challenging the Award and decree dated 12.09.2005 in O.P.No.2260 of 2003 passed by the Motor Accidents Claims Tribunal-cum-XIII Additional Chief Judge (FTC), City Civil Court, Hyderabad (for brevity "the Tribunal"), awarding compensation of Rs.33,000/- as against the claim of Rs.2,50,000/- laid by him under Section 166 of the Act, for the injuries sustained by him in a motor accident that occurred on 06.08.2003.

2. Appellant is the claimant, respondent No.1 is the owner of Ambassador Car bearing No.APY 8297 and respondent No.2 is New India Assurance Company Limited (insurer). For the sake of convenience, the parties are referred to as they were arrayed in O.P.No.2260 of 2003 before the Tribunal.

3. The brief facts of the case are that on 06.08.2003 at about 7.00 p.m., while the claimant was proceeding by walk towards his house at Jagathgirigutta and when he reached near Maqdoom Nagar Chowrastha, one Ambassador car bearing No.APY 8297 came with high speed in a rash and

negligent manner and dashed against the claimant due to which he sustained closed fracture superior and inferior pubic rams, damage to right side spinal card, fracture to left leg ankle, fracture to hip and other multiple injuries all over the body, crush injury to left foot and became unconscious. Immediately he was shifted to Gandhi Hospital, where he had undergone treatment. The P.S., Jeedimetla, registered a case in Crime No.344 of 2003 for the offence punishable under Section 337 IPC. The claimant filed the aforesaid O.P.No.2260 of 2003 claiming compensation of Rs.2,50,000/- for the injuries sustained by him in the said accident.

4. Respondent No.1 – owner of the Car remained exparte and respondent No.2 – insurer filed counter denying its liability and also the quantum of compensation. On consideration of the evidence of P.W.1 and documentary evidence under Exs.A.1 to A.7 filed on behalf of the claimant and Ex.B.1 – Certified copy of Insurance Policy filed on behalf of the 2nd respondent - insurer, by the aforesaid Award and decree dated 12.09.2005, the Tribunal awarded a compensation of Rs.33,000/- under various heads with interest @ 6% per annum from the date of the petition till realization against the respondents. Aggrieved by the same, the appellant-claimant has preferred the present appeal seeking enhancement of compensation.

5. Heard Sri K. Venkat Ram Reddy, learned counsel for the appellant-claimant, as well as Sri Kota Subba Rao, learned Standing Counsel for respondent No.2 – Insurer. Perused the Award under challenge and also the evidence on record.

6. Learned counsel for the appellant-claimant submits that the Tribunal has not awarded any amount towards the injuries sustained by the claimant and that the total amount of compensation awarded by the Tribunal under various heads is inadequate and hence sought for enhancement of compensation.

7. On the other hand, the learned Standing Counsel for the 2nd respondent – insurer submits that the compensation awarded by the Tribunal is adequate and the impugned Award does not require any interference.

8. On consideration of the arguments advanced by the learned counsel for the respective parties and also the evidence available on record, it is obvious that the Tribunal has awarded Rs.5,000/- towards pain and suffering and no amount was awarded for the injuries suffered by the claimant. The claimant has suffered fracture superior and inferior pubic ram and he had undergone conservative treatment. As per Ex.A.5, the claimant has taken treatment from People's Hospital, Kukatpally, from 20.08.2003 to 26.08.2003 for the inferior closed fracture and pubic ram and

multiple abrasions all over the body. Though the Tribunal has believed the evidence of P.W.1 and taken into consideration the documentary evidence under Exs.A.3 – Injury Certificate, Ex.A.4 - Discharge Card of Gandhi Hospital, Ex.A.5 – Discharge Card issued by People’s Hospital, Ex.A.6 – Medical Bills and Ex.A.7 – X-ray Films, awarded Rs.5,000/- only towards pain and suffering. Therefore, the amount of Rs.5,000/- awarded by the Tribunal towards pain and suffering is enhanced to Rs.35,000/-. Further, the amount of Rs.1,000/- awarded by the Tribunal towards transportation is enhanced to Rs.3,000/-. The amount of Rs.5,000/- awarded by the Tribunal towards extra nourishment is enhanced to Rs.10,000/-. The amounts awarded under other heads shall remain unaltered.

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

Compensation towards	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.
1. Transport expenses	1,000.00	3,000.00
2. Damage of clothes	1,000.00	1,000.00
3. Pain and sufference	5,000.00	35,000.00
4. Attendant expenses	5,000.00	5,000.00
5. Extra nourishment	5,000.00	10,000.00
6. Medical expenses	5,000.00	5,000.00
7. Inconvenience, uneasiness and temporary disability	3,000.00	3,000.00
8. Loss of earnings for two months	8,000.00	8,000.00
TOTAL :	33,000.00	70,000.00

10. In the result, the Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.33,000/- to Rs.70,000/- (Rupees seventy thousand only) with proportionate costs and the enhanced amount also shall carry interest @ 6% per annum from the date of petition till the date of realization. The respondents are directed to deposit the compensation amount within two months from the date of receipt of a copy of this judgment. No order as to costs.

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

04.10.2017.
Msr



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