

THE HON'BLE MS. JUSTICE J. UMA DEVI

M.A.C.M.A.No. 2567 of 2005

JUDGMENT:

This appeal is filed by the appellant/claimant seeking enhancement of the compensation awarded in O.P.No.926 of 2001 on the file of the Motor Accidents Claims Tribunal-cum-IV Additional District Judge, (Fast Track Court), Nizamabad, dated 03.02.2004.

2. The case of the appellant/claimant is that on 08.04.2001 while he was standing along with another person by name E.M.Srinivas near a culvert on Navipet to Nandipet road, at about 6.00 P.M. a tractor bearing No.A.P.25.E.8744 came behind them in a rash and negligent manner with high speed and dashed against them. In the aforesaid accident, he sustained fractures to his left leg, right foot and injuries over the skull. Soon after the accident, he was admitted in Tirumala Nursing Home, Nizamabad, and his his left leg was operated and a steel rod was inserted by an Orthopaedic Surgeon and that he incurred huge expenditure towards medical treatment. He laid the claim for Rs.2,00,000/- against the respondents.

3. The 1st respondent remained ex parte. The 2nd respondent filed counter disputing the negligence attributed to the driver of the tractor and also the quantum of compensation etc.,

4. During the course of enquiry, the claimant examined himself as P.W.1, apart from examining the Orthopaedic Surgeon as P.W.2 and marked Exs.A1 to A7. Ex.C1-Disability Certificate issued by P.W.2 was also marked. On behalf of the 2nd respondent, Ex.B1-Insurance Policy was marked and no oral evidence was adduced.

5. The main contention of the appellant is that though he proved that he received injuries in the above mentioned accident by way of production of oral and documentary evidence, the Tribunal awarded meagre compensation of Rs.15,000/- and no separate amount was awarded towards pain and suffering and that the compensation awarded under the head of extra nourishment and transportation charges is very low and meagre.

6. Learned Standing Counsel for the 2nd respondent-Insurance Company has fairly conceded that the Tribunal had not awarded any compensation to the appellant/claimant under the head of pain and suffering and he came forward for passing of a fair award enhancing the compensation to Rs.25,000/-.

7. Heard the contentions of the learned Counsel appearing for both the parties and perused the impugned award passed by the Claims Tribunal and also the evidence available in the case record.

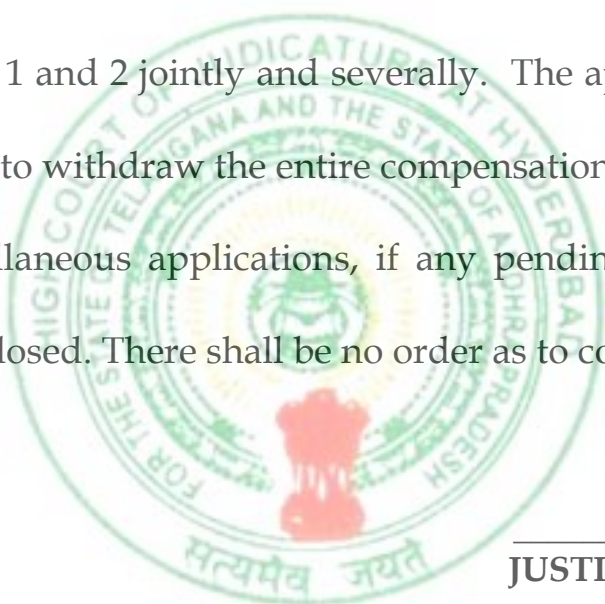
8. There is no much dispute with regard to the finding of the Tribunal that the accident occurred due to the negligent driving of the crime vehicle. Relying on the evidence of P.W.1 and Ex.A1, copy of FIR, and Ex.A2 copy of charge sheet, the Tribunal had recorded that the accident occurred due to the negligent driving of the crime vehicle by its driver. There is also no dispute regarding the validity or subsistence of the insurance policy of the crime vehicle as on the date of the accident. Therefore, the findings of the Tribunal on these two aspects are hereby confirmed.

9. As per the findings of the Tribunal, the claimant sustained a grievous injury and was treated in the hospital of P.W.2 from 8.4.2001 and was discharged on 20.4.2001. The Tribunal awarded Rs.5,000/- for the grievous injury, Rs.7,000/- towards medical expenses and Rs.3,000/- for transportation and extra-nourishment. But, no amount was awarded under the head of pain and suffering. Having regard to the nature of injuries sustained by the appellant/claimant and the period of treatment and also the aforesaid submissions made by the appellant/claimant, which are not opposed by the learned Standing Counsel for the 2nd

respondent/Insurance Company, I feel it appropriate to pass an award enhancing the compensation to Rs.25,000/- from Rs.15,000/-.

10. In the light of the discussion held above, the appeal is allowed in part enhancing the compensation from 15,000/- to Rs.25,000/- (Rupees Twenty Five Thousands only) together with interest @ 7.5% per annum from the date of filing of claim petition till the date of realization and the same shall be payable by respondents 1 and 2 jointly and severally. The appellant-claimant is permitted to withdraw the entire compensation amount at once.

Miscellaneous applications, if any pending in this appeal, shall stand closed. There shall be no order as to costs.



JUSTICE J. UMA DEVI

10.11.2017
Gsn