

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

M.A.C.M.A No. 1029 of 2010

JUDGMENT:

This appeal is arising out of the Order dated 30.04.2010 in O.P. No.756 of 2008 on the file of the Motor Accident Claims Tribunal (VIII Additional District Judge), at Nizamabad (for short, 'the Tribunal').

2. Brief facts of the case are that on 21.05.2005, at 11:00 AM, while the petitioner was going on foot at Hanuman Mandir, Vinayak Nagar, Nizamabad, an auto rickshaw bearing No.AP-25U-8127 came from behind, driven by its driver in a rash and negligent manner, at high speed, dashed the petitioner. As a result of which, the petitioner fell down and sustained injuries. Immediately, he was admitted into Government Hospital, Nizamabad, where he was treated as inpatient from 11.05.2005 to 24.05.2005. Alleging that the accident occurred due to the rash and negligent driving by the driver of the auto rickshaw, the claimants filed the claim petition under Section 166(1)(a) of the Motor Vehicles Act, 1988, claiming compensation of Rs.2,00,000/- against respondents 1 and 2, the owner and the insurer of the crime vehicle.

3. The Tribunal, on consideration of the evidence of witnesses PWs.1 and 2, and the documents Exs.A1 to A8, and Ex.B1, awarded compensation of Rs.12,000/-. Aggrieved by the quantum of

compensation, the petitioner filed this appeal seeking enhancement of compensation.

4. The point for consideration in this matter is

(i) Whether the appellant is entitled for enhancement of compensation?

5. Heard the arguments of learned counsel for the appellant-claimant, and 2nd respondent-insurer.

6. Learned counsel for the appellant-claimant submits that the injured has suffered one grievous injury, and one simple injury. He was 19 years old and was an agriculturist and also used to work as a paper boy earning Rs.100/- per day. But the Tribunal has awarded only Rs.12,000/- as compensation on account of the injuries sustained by him in the accident. Therefore, the appellant requested for enhancement of compensation.

7. Learned counsel for the respondent-insurance company submits that the petitioner has not produced any evidence with regard to the medical expenditure incurred by him. He further submits that the petitioner has not produced any evidence in proof of his income, his occupation as agriculturist and also as a paper boy, and therefore, the compensation awarded by the Tribunal is adequate and the same does not require any interference.

8. On consideration of the award passed by the Tribunal and the evidence adduced by the parties, it is proved that the accident

occurred due to the negligence on the part of the driver of the motor vehicle.

9. There is evidence of the medical officer-PW2 to the effect that the petitioner suffered one grievous injury and one simple injury and he had taken treatment in a Government Hospital. It is obvious that the Tribunal has awarded a very meager compensation which is inadequate as rightly contended by the counsel for appellant.

10. Therefore, an amount of Rs.25,000/- is awarded towards one grievous injury, and an amount of Rs.5,000/- is awarded towards one simple injury.

11. It is obvious that the petitioner was aged 19 years by the date of accident, and he is said to be an agriculturist and also a paper boy, but no proof with regard to his income was produced by the petitioner. In such a case, we take the notional income of the petitioner as Rs.3,500/- per month, as it is the minimum wages a labourer used to earn in an unorganized sector.

12. Therefore, keeping in view the notional income of the petitioner, he is entitled for two months income towards loss of earnings as he suffered a grievous injury and a simple injury. Therefore, an amount of Rs.7,000/- is awarded towards loss of earnings.

13. The Tribunal has not considered to award any amount towards transportation charges, attendant charges and extra

nourishment and, therefore, an amount of Rs.5,000/- is awarded under this Head.

14. On consideration of the evidence on record, the compensation awarded by the Tribunal is enhanced from Rs.12,000/- to Rs.42,000/-.

15. In the result, the appeal is partly-allowed, modifying the award passed by the Tribunal by enhancing the compensation from Rs.12,000/- to Rs.42,000/- with proportionate costs and interest at 9% per annum, from the date of petition till realisation.

No costs. Miscellaneous petitions, if any pending, shall stand closed.

27th March, 2017

KSM

GUDI SEVA SHYAM PRASAD, J



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