

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

[*Special Original Jurisdiction*]

THURSDAY THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND SEVENTEEN

PRESENT
HONOURABLE DR. JUSTICE SHAMEEM AKTHER

MACMA.No. 2994 OF 2005

Between:

Y.V. Natesh Kumar ... Appellant/claimant

V/s.

T. Gopal & Anr. ... Respondents-Respondents

Counsel for the appellant : Sri J.Narayanaswamy

Counsel for the Respondents: : Sri Manne Hari Babu

The court made the following: [Judgment follows]

HONOURABLE DR. JUSTICE SHAMEEM AKTHER**MACMA.No. 2994 OF 2005****J U D G M E N T :**

This Civil Miscellaneous Appeal is filed by the appellant/claimant against the award and decree dated 20/08/2005 passed in OP.No. 457 of 2002 by the Motor Accident Claims Tribunal [V-Additional District Judge], {FTC} Ananthapur, seeking enhancement of compensation.

2. Heard Sri J. Narayanaswamy, learned counsel for the appellant/claimant. There is no representation on behalf of the respondents 1 and 2. However, this appeal can be disposed of on merits.

3. The learned counsel appearing for the appellant/claimant would submit that the appellant/claimant suffered two grievous injuries to his head including brain and he was hospitalized for a considerable period. He incurred medical expenses to a tune of Rs.1,00,000/- and above and could not work for six months. The Tribunal granted Rs.36,000/- towards medical expenses and Rs.15,000/- for the injuries and Rs.10,000/- for pain and suffering. In all, the Tribunal awarded Rs.55,000/- as against the claim of Rs.1,75,000/- which is meagre and ultimately allow the appeal as prayed for.

4. As per the evidence on record, the appellant/claimant suffered injury to brain and left side of the head due to rash and negligent driving of the tractor and trailer bearing Regd.No. AP02-T-6351 and 6352 on 05/5/2002 and the same is validly insured with the second respondent/insurer. The Tribunal having analysed the entire evidence held issues regarding rashness and negligent driving of crime vehicle and valid insurance of the same against the respondents 1 and 2. There is no infirmity in the award and decree passed by the Tribunal with regard aforesaid findings, but the only point for determination is whether the appellant is entitled for enhanced compensation.

5. Though the appellant contended that he spent Rs.1,00,000/- and he did not file clear medical receipts. The Tribunal analysed Exs.A-3 and A-4 i.e., Medical bills and bill receipt and the Tribunal did not believe the same. However, taking into account the evidence of PW-2 Dr.Jaganmohan Reddy with regard to the appellant being treated in ICU for number of days other medical evidence and granted Rs.35,000/- towards medical expenses, which is quite reasonable. The Tribunal has granted adequate compensation for the injuries, pain and suffering, therefore, no interference is warranted. The Tribunal did not grant any compensation for the loss of earnings stating that there is no evidence on record to believe the same. As per the record, the

appellant suffered injury to head and was in hospital from 05/5/2002 to 25/5/2002. He was also treated for five days and seven days respectively in ICU. There is clear evidence of PW-3 and PW-2 to that effect. PW-2 is a doctor and PW-3 is a General Manager of Apollo Hospital. They also stated in their evidence with regard to hospitalization and treatment taken by the appellant. As per the record, the appellant is aged about 23 years. It is said that he is self-employed, the injury and the hospitalisation definitely resulted, appellant not working for a considerable time. In the circumstances the period can be taken as six months and the appellant can be granted Rs.18,000/- @ Rs.3000/- per month towards loss of earnings. There are no other circumstances to enhance the compensation.

6. In the result, the Civil Miscellaneous Appeal is allowed and the compensation payable to the appellant/claimant is enhanced to Rs.73,000/- from Rs.55,000/-. The rate of interest shall carry interest @7.5% per annum from the date of filing claim-petition till its realization. However, other conditions imposed by the Tribunal remain unchanged. On such deposit, the appellant is entitled to withdraw the entire compensation. There shall be no order as to costs.

8. As a sequel, miscellaneous petitions if any, pending in this MACMA
shall stands disposed of.

DR. JUSTICE SHAMEEM AKTHER,



HONOURABLE DR. JUSTICE SHAMEEM AKTHER



MACMA.No. 2994 OF 2005
(ALLOWED)

Date: 26/10/2017
Circulation No. 82
Court Master: I s L