

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.81 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 25.03.2004 in O.P.No.420 of 2000 passed by the Motor Accidents Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Anantapur District (for brevity "the Tribunal"), awarding compensation of Rs.10,500/- as against the claim of Rs.65,000/- laid under Sections 140 and 166 of the Act, for the injuries sustained by him in a motor accident that occurred on 08.01.2000.

2. The brief facts of the case are that on 08.01.2000 at about 8.30 p.m., while the appellant along with others was going to his native village from Anantapur in the Taxi bearing No.AP02-U-0945 as a fare paid passenger, the driver of the Taxi drove it in a rash and negligent manner at high speed, on account of which the Taxi turned turtle and the appellant and others traveling in the said Taxi sustained bleeding and fracture injuries. On information, B.K. Samudram P.S. registered a case in Crime No.1/2000 for the offences punishable under Sections 337 and 338 IPC against the driver of the Taxi. The appellant filed the aforesaid

O.P.No.420 of 2000 claiming compensation of Rs.65,000/- 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 Taxi.

3. Before the Tribunal, respondent No.1 – owner of the crime Taxi remained exparte and respondent No.2 – Oriental Insurance Company Limited (insurer) filed its counter denying the allegations made in the claim petition on various grounds.

4. On consideration of the evidence and the material on record, by order and decree dated 25.03.2004, the Tribunal awarded a compensation of Rs.10,500/- under various heads with interest @ 9% per annum from the date of the petition till realization fixing liability against respondent Nos.1 and 2 jointly and severally and directed the 2nd respondent – insurer to deposit the compensation amount together with interest within one month from the date of the order. Aggrieved by the same, the appellant-petitioner has preferred the present appeal seeking enhancement of compensation.

5. Heard Sri G. Rama Mohan Reddy, learned counsel for the appellant-petitioner. There is no representation on behalf of respondent No.2 – Insurer. The claim against respondent No.1 – owner of the Crime Taxi was dismissed vide Court order dated 17.02.2017. Perused the order under challenge and also the evidence on record.

6. O.P.No.420 of 2000 was filed by the appellant in the year 2000 claiming compensation of Rs.65,000/- for the injuries sustained by him in the accident. The appellant suffered one grievous injury and one simple injury. The Tribunal has awarded Rs.7,500/- for grievous injury, Rs.1,500/- for simple injury and Rs.1,500/- towards pain and suffering. The Tribunal has taken into consideration the nature of injuries sustained by the appellant in awarding compensation. Ex.P.2 – Certified copy of the Wound Certificate dated 28.02.2000 shows that the appellant has suffered two injuries – (1) a lacerated injury of 2' x ½' skin deep over left middle finger bleeding, and (2) Pain and tenderness over lower back. It also discloses that X-ray was taken on 10.01.2000, which shows lumbar spine AP and lateral and there was presence of vertebra compression. As per the evidence of the Doctor, who examined P.W.1 – appellant, Injury No.1 is simple in nature and injury No.2 is grievous in nature and hence the compensation awarded by the Tribunal does not appear to be just and adequate.

7. Therefore, 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. Grievous injury	7,500.00	25,000.00
2. Simple injury	1,500.00	5,000.00
3. Pain and suffering	1,500.00	15,000.00
TOTAL :	10,500.00	45,000.00

8. In the result, the Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.10,500/- to Rs.45,000/- (Rupees forty five 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 respondent No.2 – insurer is 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.

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

GUDISEVA SHYAM PRASAD, J

06.10.2017.
Msr

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