

HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A. No. 364 OF 2006

JUDGMENT:

This appeal is arising out of order, dated 01.12.2005, passed by the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Karimnagar (for short, 'the Tribunal'), in O.P. No.614 of 2004.

2. The appellant is a minor boy aged about 15 years, who filed the above claim petition under Section 166(1)(a) of the Motor Vehicles Act, 1988 (for short, 'the Act'), claiming compensation of Rs.1,00,000/- for the injuries sustained by him in a motor accident occurred on 10.04.2004 due to the rash and negligent driving of respondent No.1-driver of the auto rickshaw bearing registration No.AP-15-01-U-6840. The Tribunal, on consideration of the evidence of P.Ws.1 to 3 and the documents Exs.A.1 to A.8 and Ex.B.1-copy of insurance policy, awarded compensation of Rs.18,170/- with interest at 7.5% per annum from the date of petition till realization against respondent Nos.1 to 3, who are the driver, owner and insurer of the said auto rickshaw. The appellant, being aggrieved by the quantum of compensation, has preferred this appeal for enhancement of compensation.

3. Heard Sri Ramachandar Rao Vemuganti, learned counsel for the appellant. On behalf of respondent Nos.1 to 3, no arguments are advanced.

4. Since the matter pertains to the year 2006 and sufficient opportunities are given to the learned counsel for respondents, the matter is posted for judgment.

5. The point for consideration in this matter is, whether the appellant is entitled for enhancement of compensation?

6. Brief facts of the case are that on 10.04.2004, while the petitioner was going along with his grand-mother in an auto rickshaw bearing registration No.AP-15-01-U-6840, the driver of the said auto rickshaw had driven it in a rash and negligent manner and dashed against a stationed auto trolley containing wood load, due to which, the petitioner sustained fracture to his fourth rib. The police concerned registered a case against the driver of the said auto rickshaw. The petitioner was treated as an inpatient for ten days in the hospital and he underwent a surgery for his fracture.

7. The appellant, who is a boy aged about 15 years, received injuries in a motor accident and the Tribunal awarded compensation of Rs.18,170/- as against Rs.1,00,000/- as claimed by him. As per the evidence of P.W.3-medical officer, the petitioner sustained a fracture to his fourth rib, which is a grievous in nature and the petitioner had undergone treatment in the hospital from 10.04.2004 to 19.04.2004. P.W.3 also admitted that the discharge bill was for Rs.5,270/- including the medical bills. The Tribunal granted the said amount of Rs.5,270/- towards discharge bill and also granted Rs.3,900/- towards purchase of medicines covered under Ex.A.6 and the said amounts are confirmed.

8. Admittedly, this is a case of injuries. The appellant was 15 years old boy by the date of accident. He suffered a fracture to his fourth rib and was treated as an inpatient for nine days in the hospital. The Tribunal has awarded compensation on lower side under some heads, which can be enhanced on consideration of the evidence of medical officer-P.W.3. The amounts of Rs.1,000/- towards transport charges, Rs.2,000/- towards extra nourishment and

Rs.6,000/- towards pain and suffering granted by the Tribunal appear to be on lower side. The appellant-petitioner has not produced any evidence before the Tribunal with regard to the permanent disability suffered by him. The injury sustained by the petitioner is a fracture to his fourth rib and it can be easily healed due to the tender age of the appellant. There is also no evidence on record to show that the petitioner suffered any discomfort and he would suffer future inconvenience due to the injury. Therefore, the petitioner is not entitled for any compensation under the head of permanent disability. Keeping in view the said facts, the compensation granted by the Tribunal under various heads is enhanced as follows:

S.No.	Head under which the compensation is awarded.	Amount awarded by the Tribunal Rs.	Enhanced amount in this appeal Rs.
1.	Transport charges	1,000-00	2,500-00
2.	Extra nourishment	2,000-00	5,000-00
3.	Medical treatment	5,270-00	5,270-00
4.	Medical bills	3,900-00	3,900-00
5.	Pain and suffering including fracture injury	6,000-00	20,000-00
6.	Total	18,170-00	36,670-00

9. In the result, the appeal is allowed in part modifying the order passed by the Tribunal and the compensation awarded by the Tribunal of Rs.18,170/- is enhanced to Rs.36,670/- with proportionate costs and subsequent interest @ 7.5% per annum from the date of petition till realization. Respondent No.3 is directed to deposit the amount within two months from the date of this judgment. On such deposit, the appellant is permitted to withdraw the entire amount after expiry of appeal time, excluding the amount already withdrawn by him, if any. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

G. SHYAM PRASAD, J

Date: 03-02-2017
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