

THE HON' BLE SRI JUSTICE M. S. K. JAISWAL

MACMA No. 1050 of 2010

JUDGMENT:

The appellant/ claimant preferred the present appeal questioning the Order and Decree, dated 11.11.2009 in MVOP.No.371 of 2007 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Tirupati, being dissatisfied with the award of compensation of Rs.34,500/- as against his claim for Rs.1,50,000/- towards the injuries sustained by him in the accident said to have taken place on 10.01.2007.

2. The brief facts of the case are that on 10.01.2007 at about 6.00 p.m. near Gutisedu cross road, Srikalahasti-Kalangi bus-stand main road, between Anguru-Kalangi village, KVB Puram, the petitioner along with some other passengers were traveling in an Auto bearing No.AP03V 3544. At that time, another Auto bearing No.AP03V-7078 came in the opposite direction in a rash and negligent manner, and dashed against the Auto in which the petitioner/ claimant was traveling. As a result, the appellant/ petitioner-Venkateshwarlu and one Eswar Reddy sustained injuries all over the body. The petitioner was shifted to Government Area Hospital, Srikalahasti and thereafter shifted to SVRR GG Hospital, Tirupati, where he was treated as in patient for one month and took treatment with private doctors, and spent an amount of Rs.20,000/- towards the medicines etc. The police booked an offence in Crime No.1/07 under Section 338 IPC against the 1st Respondent, driver of the second auto, which was insured with the 2nd respondent. Hence, the claim by the injured.

3. The Tribunal, after taking into consideration the oral and documentary evidence, which comprises of PWs.1 and 2, Exs.A1 to A.5; Ex.C-1 and C-2, and Ex.X.1 on behalf of the claimant; and PWs.1 and 2, Ex.B-1 and B-2 on behalf of the respondents, found that the claimant has sustained two grievous injuries and one simple injury, and therefore awarded an amount of Rs.30,000/- for the injuries, pain and suffering; and also awarded Rs.4,500/- towards medical bills, totaling to Rs.34,500/- in all.

4. The learned counsel for the appellant/ claimant submits that the injured was an agricultural labour, aged about 31 years at the time of accident, and he was hospitalized for more than a month during which period he had undergone surgery, which fact was spoken to by the Medical Officer and documentary evidence produced to the effect that the claimant has suffered fracture injury, which resulted his being not in a position to discharge his regular duties as agricultural labour, and therefore, the Tribunal erred in awarding a lesser compensation of Rs.34,500/-, which is grossly inadequate and unjust, and needs enhancement in the present appeal.

5. The learned counsel appearing for the Insurance Company submits that the Tribunal awarded a just and proper compensation, which cannot be interfered or enhanced in the present appeal, and therefore, the appeal is liable to be dismissed.

6. The finding of the Tribunal with regard to the accident that is taken place in the manner in which it is alleged, the date, time and place as stated above has been proved, and the same is not under

challenge. Similarly the liability of the Insurance Company to indemnify the injured is also not in question. The only point involved is whether the compensation awarded by the Tribunal is just and reasonable or whether it needs to be enhanced, as claimed by the claimant.

7. The oral and documentary evidence, coupled with the Doctor's evidence as PW-2 and the documents under Exs.A3 to A5 and Exs.C1 and C2, shows that the injured has sustained in all three injuries, which are grievous in nature. One of such injury was found to be a fracture, which resulted in surgery being made on 19.1.2007 in SVRR GG Hospital, Tirupati and the patient was discharged on 01.02.2007. Thus, the claimant was treated as in patient, even after the surgery till 01.02.2007. Therefore, the amount so awarded by the Tribunal can be said to be inadequate insofar as the two grievous injuries and one simple injury sustained by the claimant. In view of the above, it is clear that because of two grievous injuries, the claimant was hospitalized for a period of more than 20 days, and would have suffered immensely due to the surgery, and therefore he ought to have been awarded a further sum of Rs.15,000/- towards the pain and suffering and also incidental and attendant charges. In addition to the above, the Tribunal ought to have awarded a minimum sum of Rs.500/- to the injured towards the transportation charges. Therefore, in my opinion, the just and reasonable compensation that could be determined and payable to the injured/ claimant is Rs.50,000/- in all, as against the enhancement claimed in the appeal.

8. In the result the appeal is partly allowed, enhancing the compensation to Rs.50,000/- in all, with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The respondents are directed to deposit the total compensation, as determined above, within two months from today, and on such deposit the claimant is permitted to withdraw the entire amount with interest.

Consequently, the pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 20.06.2017
Kv

M.S.K.JAISWAL, J



THE HON' BLE SRI JUSTICE M. S. K. JAISWAL



MACMA No. 1050 of 2010

JUDGMENT

Dt. 20..06..2017

Kv