

HON'BLE SRI JUSTICE M.S.K.JAI SWAL

M.A.C.M.A.No.1089 of 2010

JUDGMENT:

The appellant is the injured. He filed the appeal questioning the award passed by the learned Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge (FTC), Parvatipuram (for short 'the Tribunal') in M.V.O.P.No.696/2008, dated 06.04.2010, by and under which the Tribunal awarded a sum of Rs.81,000/- as against the claim of Rs.2,00,000/-

Briefly the case of the appellant is that on 12.03.2008 the claimant along with other passengers, boarded the lorry bearing registration No.AP35T-3890 at Gajapathinagaram with rice load to unload the rice bags at Mentada, and after unloaded the goods, the claimant was returning in the same lorry and when reached near outskirts of Mentada, the driver of the lorry drove the lorry in a rash and negligent manner with high speed and dashed a parked bullock cart and further dashed a Palmyrah tree, as a result, one person who sat in cabin died and he sustained simple and grievous injuries. He was aged about 23 years and working as a Cleaner and earning Rs.4,000/- per month besides batta of Rs.50/- per day by the time of accident. The 1<sup>st</sup> respondent is the driver, 2<sup>nd</sup> respondent is the owner of the offending vehicle and the 3<sup>rd</sup> respondent is the insurer.

On behalf of the claimant PWs 1 to 4 were examined and Exs.A1 to A9 were marked. On behalf of the respondents, no oral evidence was adduced, but the insurance policy was marked as Ex.B1.

The Tribunal, after taking into consideration the oral and documentary evidence, determined the compensation at Rs.81,000/- together with interest @6% p.a.

The learned counsel for the appellant submits that the amount awarded by the Tribunal is grossly inadequate and even though the claimant

spent huge amounts for medicines and extra nourishment, but the Tribunal awarded only Rs.20,000/-, that the Tribunal granted lesser interest @6% p.a. instead of @7.5% p.a. and hence it is a fit case where the amount of compensation to be enhanced.

The learned counsel for the insurance company submits that the appellant sustained two grievous injuries and two simple injuries, for which the Tribunal determined the compensation based on the evidence available on record, which is just and reasonable and does not warrant any enhancement.

Heard both sides and perused the material on record.

The factum of accident involving the vehicle, the date, time and place, and the fact of crime vehicle being insured with the 3<sup>rd</sup> respondent-insurance company are not in dispute. Similarly, the liability that is fastened on the respondents jointly and severally is also not challenged. The only claim of the appellant is that though he sustained grievous injuries, the Tribunal has not awarded just and reasonable compensation and only awarded a compensation of Rs.81,000/- as against the claim of Rs.2,00,000/-

Upon carefully perusing the oral and documentary evidence on record and also the impugned award, it is noticed that the Tribunal has taken into consideration the evidence of PWs 3 & 4-the medical officers and awarded a sum of Rs.20,000/- towards medical expenses, Rs.10,000/- towards pain and suffering and Rs.51,000/- towards permanent disability, in all awarded a compensation of Rs.81,000/-, which cannot be said to be in any way inadequate or unjust, and hence there are no grounds to enhance the same. However, it is observed that the Tribunal awarded interest @6% p.a. on the compensation amount, but it should be @7.5% p.a.

Subject to the above modification, the MACMA is allowed in part. The respondents, within a period of two months from today, shall deposit the

compensation amount together with proportionate costs and interest thereon @7.5% p.a. from the date of petition till the date of realization. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

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M.S.K.JAI SWAL, J

Date: 19<sup>th</sup> June, 2017  
Dsr

