

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

MACMA No.716 of 2010

JUDGMENT:

This appeal is arising out of the order dated 29.12.2009 in M.V.O.P.No.61 of 2006 on the file of the Chairman-Motor Accidents Claims Tribunal-cum-District Judge, Adilabad (for short 'the Tribunal).

2. The appellant is the petitioner. She filed the above referred O.P. under Sections 166(1)(a) and 163-A of the Motor Vehicles Act, 1988 for grant of compensation of Rs.1,50,000/- on account of the injuries sustained by her in a motor vehicle accident.

3. The brief facts of the case are that on 05.12.2004 at about 6.30 pm when the petitioner was proceeding to Dahegeon Village from Bhainsa in an auto bearing No.AP1V 0404 and when she reached the said village, the driver of the auto drove the vehicle at high speed in a rash and negligent manner, due to which, the auto turned turtle to the side of the road, resulting in fracture to her pubic bone, dislocation of pubic bone and injuries to other parts of the body and immediately, she was shifted to Government Hospital, Bhainsa and thereafter, she was referred to Sai Surgical and Accidental Hospital, Nanded.

4. The Tribunal, on consideration of the oral and documentary evidence, has awarded compensation of Rs.70,000/- as against the claim of Rs.1,50,000/-. Dissatisfied with the quantum of compensation, the appellant filed this appeal for enhancement of the same.

5. Heard Sri Dayakar Reddy, learned counsel for the petitioner. Though notices were served to the respondents, none appeared on their behalf and hence, the arguments, on their behalf, are deemed to be heard.

6. The point for consideration is whether the appellant is entitled to enhancement of compensation?

7. Learned counsel for the appellant submitted that the Tribunal has not considered 30% disability suffered by the petitioner while awarding compensation. The Tribunal awarded a lumpsum amount, without considering various heads, like extra nourishment, pain and suffering and attendant charges. It is further submitted that the medical expenses of Rs.20,000/- also not considered by the Tribunal.

8. Learned counsel for the appellant further submitted that the petitioner had suffered three grievous injuries, and one simple injury, and she took treatment in a hospital. PW2-Medical officer, had treated her and issued Ex.A2 wound certificate showing that she had suffered 30% disability for the injury caused to her in the accident.

9. At the out set, this is an appeal filed by the claimant for enhancement of compensation. The Tribunal has to award just and adequate compensation under different heads as claimed by the appellant. No doubt, the Tribunal has awarded lumpsum amount of Rs.70,000/-, but it is not specified under what head, the said amount was awarded. Even if we consider that the

compensation awarded under all the heads at Rs.70,000/-, it does not appear that it is an adequate compensation.

10. It is pertinent to note that what are the injuries suffered by the petitioner and what was the treatment undergone by her and who treated her. Para 8 of the order of the Tribunal clearly reveals the nature of the treatment undergone by the petitioner. According to Ex.A2, she sustained fracture to superior pubic rami and fracture to inferior pubic rami and dislocation of pubic bone and pain and tenderness of pelvis. She had sustained three grievous injuries and one simple injury and was admitted as inpatient on 05.12.2004 and was discharged on 13.12.2004. As per the evidence of PW2-medical officer, the petitioner underwent surgery in the hospital and implants were inserted and she had to undergo further treatment for removal of implants.

11. Admittedly, petitioner was a coolie by profession, she was 39 years old. Her nature of job was physical activity. She suffered 30% disability which hampers her to progress in her profession due to the disability. She had undergone operations and she is in need of further treatment. On consideration of these aspects, the compensation awarded by the Tribunal is enhanced from Rs.70,000/- to Rs.1,45,000/- as under:

For three grievous injuries (pain and suffering) Rs.60,000/-, for one simple injury Rs.5,000/-, for medical expenses Rs.20,000/- for extra nourishment, attendant charges and transport charges Rs.10,000/- and for 30% disability Rs.50,000/- are granted.

12. In the result, the appeal is partly allowed enhancing the compensation awarded by the Tribunal from Rs.70,000/- to

Rs.1,45,000/- with proportionate costs and interest at the rate of 7.5% per annum from the date of petition till realization. The respondents are directed to deposit the amount within two months from the date of receipt of a copy of this order, excluding the amount, if any, deposited earlier. On such deposit, the appellant is permitted to withdraw the same, if she has not withdrawn earlier. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

Date : 16.02.2017
ssp

GUDISEVA SHYAM PRASAD,J

