

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

M.A.C.M.A.No.2616 OF 2005

JUDGMENT:

Claimant in M.V.O.P.No.1245 of 2002 on the file of the Motor Vehicle Accidents Claims Tribunal – cum – IX Additional District Judge at Guntur is the appellant in the present appeal filed under Section 173 of the Motor Vehicles Act, 1988.

2. Heard Sri N.Subba Rao, learned counsel for the appellant, Sri S.Kantha Chary, learned counsel for respondent No.1, and Sri C.Prakash Reddy, learned Standing Counsel for respondent No.2.

3. Appellant herein sustained injuries in a motor accident that took place on 18.09.2002. Seeking compensation of Rs.1,30,000/-, claimant/appellant herein approached the Tribunal under Sections 163-A and 166 of the Motor Vehicles Act.

4. In order to substantiate his case, the appellant herein, apart from examining himself as P.W.1, also examined P.Ws.2 and 3 and marked Exs.A-1 to A-8 and Exs.X-1 and X-2. On behalf of the respondents, R.Ws.1 and 2 were examined and Exs.B-1 to B-4 were marked.

5. On the basis of the material available, the Tribunal framed the following issues for trial:-

“1. Whether the accident occurred due to rash and negligent driving of the Lorry bearing No.AP 16 W 6511 by its driver and if so the petitioner sustained any injuries?”

2. What is the just amount of compensation that the petitioner can be granted?

3. To what relief?”

6. On issue No.1, the Tribunal categorically found that due to the rash and negligent driving of the driver of the offending vehicle, the accident took place. It is the principal contention advanced in the present appeal by the learned counsel for the appellant that the Tribunal erroneously found the annual income as Rs.15,000/- and that the Tribunal grossly erred in adopting multiplier “16” instead of “18”. While referring to the judgment of the Hon’ble Apex Court in the case of **LATA WADHWA AND OTHERS Vs. STATE OF BIHAR AND OTHERS**¹, it is the submission of the learned counsel that the minimum income per day should be taken as Rs.100/- and instead of adopting the same, the Tribunal wrongly arrived at a quantum. As per the judgment of the Hon’ble Apex Court referred to supra, the minimum income is required to be fixed as Rs.100/- per day i.e., Rs.3,000/- per month and Rs.36,000/- per annum. The age of the claimant is 20 years at the relevant point of time, as such, as per **SARLA VERMA AND OTHERS Vs. DELHI TRANSPORT CORPORATION AND ANOTHER**², the multiplier to be adopted is “18”. Instead of the same, the Tribunal adopted “16” multiplier. Therefore, even if the disability is taken as 5%, the claimant is entitled to Rs.32,400/-. The Tribunal also granted Rs.4,000/- towards two simple injuries, Rs.10,000/- towards pain and suffering, Rs.5,000/- towards loss of amenities, Rs.14,150/- towards hospital expenses and

¹ (2001)8 Supreme Court Cases 197

² (2009) 6 Supreme Court Cases 121

Rs.2,850/- towards reimbursement for purchasing medicines.

Therefore, the claimant is entitled for the following amounts:

Towards disability	:	Rs. 32,400/-
Towards simple injuries	:	Rs. 4,000/-
Towards pain and suffering	:	Rs. 10,000/-
Towards loss of amenities	:	Rs. 5,000/-
Towards hospital expenses	:	Rs. 14,150/-
Towards reimbursement for purchasing medicines	:	Rs. 2,850/-
Total	:	Rs. 68,400/-

7. In the result, the Appeal is partly allowed granting a sum of Rs.68,400/- and the claimant is entitled for future interest on the enhanced amounts at the rate of 7.5% per annum. It is also made clear that the other conditions with regard to pay and recover and the liability of the vehicle owner, as mentioned in the impugned order, shall remain in tact. There shall be no order as to costs.

8. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 07.12.2017
AMD

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