

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1045 OF 2014

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 09.07.2013 passed in M.V.O.P.No.23 of 2009 by the X Additional District and Sessions Judge (Fast Track Court), Ranga Reddy District at L.B.Nagar (for short, the Court below).

2. The brief facts of the case are that on 22.10.2008 at about 6.30 pm., when the appellant was going on his motorcycle bearing No.AP29S 2957 on the left side of the road, and when he reached near Toopranpet bus stage, the driver of car bearing No.AP10AL 1377 drove it with high speed in a rash and negligent manner and hit the appellant. In the said accident, the appellant sustained fracture injuries to his left patella associated with head injury and other multiple injuries all over the body. He filed aforesaid MVOP claiming compensation of Rs.1,50,000/- against respondents 1 and 2, the owner and insurer of the aforesaid car.

3. Before the Court below, the first respondent remained *ex parte*. The second respondent filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the evidence produced by the parties, the Court below granted Rs.2,000/- towards transportation, Rs.1,000/- towards damages to clothes, Rs.4,000/- towards extra nourishment and attendant charges, Rs.35,000/- towards treatment and medical expenses, Rs.10,000/- towards pain and suffering, Rs.9,000/- towards loss of income, Rs.10,000/- towards loss of comfort and Rs.15,000/- towards head injury. Though appellant filed Ex.A.7-disability certificate showing 45% disability, the Court below did not accept the same, but fixed the permanent disability at 5% and granted total compensation of Rs.1,26,100/- with 7% interest per annum. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Sri S.C.Mohan Prakash, learned counsel for the appellant, submitted that the appellant sustained 45% permanent disability. He further submitted to prove the permanent disability, the appellant filed Ex.A.7-disability certificate and also examined D.W.2, the doctor who treated the appellant, who deposed about 45% partial permanent disability and the treatment underwent by the appellant. He further submitted that due to the permanent disability, it has become difficult for the appellant to perform his day-to-day activities effectively and the same are affecting over his income, but the Tribunal has taken into consideration the permanent disability at 5% and granted meager amount and sought to enhance the compensation under that head.

6. Sri G.Rama Chandra Reddy, learned counsel for the second respondent, submitted that the Court below passed a well reasoned order and sought to dismiss the appeal.

7. The Court below, in spite of producing Ex.A.7-disability certificate showing the permanent disability at 45%, fixed the disability at 5% without any basis. In the facts and circumstances of the case, this Court feels that it would be appropriate to take into consideration the permanent disability of the appellant at 45%. The claimant is entitled to addition of 25% towards future prospects. As the income of the appellant was taken at Rs.4,500/- per month, his annual income comes to Rs.54,000/-. If addition of 25% towards future prospects is added, the annual income comes to Rs.67,500/- (54,000/- + 13,500/-). The multiplier for the age of the deceased is '13'. Hence, the compensation under the head 'permanent disability' comes to Rs.3,94,875/- (67,500/- X 13 X 45%). Except the said enhancement, rest of the award remains un-changed.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.1,26,100/- to Rs.4,80,875/- with interest @ 7% per annum. The respondents are directed to deposit the enhanced amount within two months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the entire amount, on payment of deficit Court fee, as he

claimed only Rs.3,50,000/-. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 03.12.2018
TJMR

