

THE HON' BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No. 135 of 2014

JUDGMENT:

Aggrieved by the award passed by the Motor Accident Claims Tribunal : Cum : III Additional Chief Judge, City Civil Court, Hyderabad (in short 'the Tribunal'), granting compensation of Rs.1,00,000/- in O.P.No.2003 of 2007, the petitioner in the O.P. preferred this appeal under Section 166 of Motor Vehicles Act, 1988.

2. The appellant herein is the petitioner in O.P.No.2003 of 2007, Respondents Nos.1 & 2, herein, are the owner and insurer of the Milk Van bearing No. AP 12T 9339, which involved in the accident dated 29.08.2007.

3. For the sake of convenience, the parties will hereinafter be referred as they are assigned before the Tribunal.

4. Heard the counsel for the petitioner and the respondents.

5. The facts in brief are that on 29.08.2007, at about 3.30 A.M., while the petitioner was proceeding on a two wheeler, at accident spot, driver of Milk Van bearing No. AP 12T 9339, came with a high speed in rash and negligent manner dashed two wheeler of the petitioner, as a result of which the petitioner sustained grievous injuries and he was hospitalized. In the afore mentioned accident the petitioner sustained fractured of mal-united of right tibia and fibula and the petitioner underwent surgery.

6. During the course of trial, the Tribunal recorded the finding that the rash and negligent driving of the Milk Van bearing No. AP 12 T 9339, belonging to R1 by its driver is responsible for the occurrence of the accident, and such accident resulted grievous injuries to the petitioner and keeping in view the gravity of grievous injury and pain and suffering, the

Tribunal awarded a total compensation of Rs.1,00,000/- to the petitioner towards pain and suffering and medical expenses and made the respondents No.1 and 2 liable to pay such compensation jointly and severally together with interest and costs.

7. The pain and trauma, which the petitioner is put to suffer on account of fracture of mal-united of right tibia and fibula, though, cannot be compensated in terms of money, and having regard to the facts that the petitioner underwent surgery and it has been arose as 30% disability as per Ex.A.9 – disability certificate and as per the deposition of P.W.2, reasonable sum might have been awarded by the Tribunal under the head of pain & suffering. As the petitioner under went surgery and future surgery that would be required for the petitioner and for his disability of 30% , in all, a sum of one more lakh has been felt reasonable under the head of pain and suffering.

8. In the light of the above, it is made clear that the compensation awarded by the Tribunal under the head such as compensation under the head of pain and suffering, alone is enhanced by one more lakh. The particulars of compensation which he has entitled to get under different heads are as follows:

Sl.No.	Particulars	Amount Rs.
1.	Compensation under the head of medical expenses	25,000-00
2.	Compensation under the head of pain and suffering	1,75,000-00
	Total compensation after enhancement (Rupees two lakhs only)	2,00,000-00

Thus the petitioner is entitled to get compensation of Rs.2,00,000/- as against Rs.1,00,000/-.

9. The appeal is allowed accordingly in part in the light of partial modification of the award of the Tribunal. In view of partial modification of the award of the Tribunal the petitioner gets compensation of Rs.2,00,000/-. The enhanced compensation amount carries interest @ 7.5%. Respondent 1 – owner of the crime vehicle and respondent 2 – Insurer of the crime vehicle are jointly and severally liable to pay the enhanced compensation to the petitioner together with interest @ 7.5% per annum from the date of filing of the petition till realization. The remaining part of the judgment remains unchanged.

Consequently, miscellaneous petitions pending, if any, in this appeal shall stand closed. No costs.

Dated: 16.11.2018

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JUSTICE T.AMARNATH GOUD



HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.135 of 2014



Date 16.11.2018

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