

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No. 146 of 2014

JUDGMENT

Aggrieved by the award passed by the Chairman, Motor Vehicles Accidents Claims Tribunal – cum – I Additional District and Sessions Judge Guntur (in short 'the court below'), granting compensation of Rs.31,000/- in M.V.O.P. No.954 of 2008, the claimant in the O.P preferred this appeal under Section 173 of Motor Vehicles Act, 1988, seeking a compensation of Rs.1,50,000/- with 12% interest per annum.

2. The appellant herein is the petitioner in M.V.O.P. No. 954 of 2008, respondents Nos. 1 & 2, herein, are the owner and insurer of the lorry bearing No. AP 20W 3612, which involved in accident dated 19.07.2008.

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

4. The facts in brief are that on 19.07.2008 the petitioner was driving auto bearing No. AP 7U 6898 from Bapatla with passengers and going towards Chirala. The auto reached Salvation Army Gifts hostel and stuvarpuram, at about 9 A.M. then lorry bearing No. A.P. 20 W 3612 owned by R1 and insured with R2, driven in a rash and negligent manner hit the auto of the petitioner from its back side. The auto turned turtle. The petitioner sustained injuries on his right hand and all over his body along with the inmates of the auto. The petitioner was immediately rushed to the Government Hospital, Bapatla and after first aid being rendered he was shifted to CGH, Guntur for better treatment. The Vedullapalli police having come to know of this incident registered a case in Cr.No.13/2008 and took up investigation. The investigation disclosed that this accident occurred due to the rash and negligent driving of the lorry by its driver.

5. The Court below has awarded a compensation of Rs.31,000/- as against Rs.1,50,000/- which was claimed by the petitioner, under the different heads like Rs.5,000/- towards shock, pain and loss of amenities of life; Rs.20,000/- for the fracture of right shaft of humerus; the petitioner is granted an amount of Rs.6,000/- towards loss of income during the period of treatment, transportation, attendant charges and extra nourishment with 7.5% interest. Aggrieved by the same the petitioner filed the present appeal, seeking the relief as prayed for.

6. Heard learned counsel for the petitioner and the respondents.

7. As seen from the evidence of P.W.2, the petitioner was admitted in the hospital with fractures, shaft of humerus middle and distal 3rd junction right side, open reduction internal fixation with DCP plate and he assessed the disability of 30 to 35 percent and the same was confirmed by P.W.-3 as 30% disability.

8. The petitioner has not filed any support to substantiate his income and the medical expenditure. Since the petitioner being an auto driver, obviously, due to the injuries sustained in the accident, his day to day earnings for couple of months will be affected.. Since, the right hand is injured, as per the medical evidence, he will not be in a position to drive any vehicle.

9. The pain and trauma, which the petitioner is put to suffer on account of fractures, shaft of humerus middle and distal 3rd junction right side, open reduction internal fixation with DCP plate, though cannot be compensated in terms of money, reasonable sum might have been awarded by the Court below towards compensation under the head of shock, pain and loss of amenities of life. As the amount of Rs.5,000/-

awarded towards shock, pain and loss of amenities of life appears to be low, the same is enhanced to Rs.10,000/. As regards to the compensation awarded in respect of fracture of right shaft of humerus, taking the period of treatment to be two months also appears to be low and the same is enhanced from Rs.20,000/- to Rs.30,000/-. As the amount of Rs.6,000/- awarded to the petitioner under the head of loss of income, transportation, extra nourishment and attendant charges, appears to be unfair the same is enhanced to Rs.14,000/-.

10. In the result, the appeal is allowed in part in the light of partial modification of the award of the Court below. In view of partial modification of the award of the Court below the petitioner gets compensation of Rs.54,000/- The enhanced compensation amount carries interest @ 7.5%. The respondents Nos. 1 and 2 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, if any, in this appeal shall stand closed. No costs.

JUSTICE T. AMARNATH GOUD

Date: 16.11.2018
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