

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

MACMA No.2838 of 2009

JUDGMENT:

This Appeal is arising out of the Decree and Award Dt.05.07.2003 in O.P.No.09 of 2002 on the file of the Chairman, Motor Accident Claims Tribunal-Cum- II Additional District Judge (FTC), Nizambad.

The Appellant who is the injured in the motor vehicle accident claimed compensation of Rs.1,00,000/- on account of the injuries sustained by him in the accident that occurred on 27.11.2001. The Tribunal, on consideration of the evidence available on record, awarded compensation of Rs.14,500/-.

Aggrieved by the impugned Award, the Appellant has preferred this appeal for enhancement of compensation.

Heard the argument of the learned counsel for the appellant. None appeared on behalf of the respondents.

The Tribunal, on consideration of the evidence on record, has arrived at a conclusion that the accident occurred due to rash and negligent driving of the driver of the crime vehicle and awarded compensation of Rs.14,500/- against the respondent Nos. 1 and 2, owner and insurer respectively. Therefore, there is no dispute with regard to finding of negligence on the part of the driver of the crime vehicle.

The appellant examined himself as Pw.1 and examined the Medical Officer-Pw.2 and filed documentary evidence-Exs. A.1 to A.5. The Tribunal has got marked Exs. C.1 to C.4. On behalf of respondents, no witness has been examined, but Exs. B.1 to B.4

were marked. On consideration of evidence, the Tribunal passed the Award.

The contention of the learned counsel for the appellant is that the Tribunal has not awarded adequate compensation by considering the medical evidence available on record.

At the outset, a perusal at the evidence of Pw.2-Medical Officer reveals that he is a practicing Orthopaedic Surgeon in Nizambad District, and he examined the Appellant on 03.01.2006. He found a fracture of both bones of right leg malunited, with shorting of 1.5 cm compared to left leg, and stiffness of right ankle, which is causing inability to squat properly, with a limp. Ex.A.3 is the Discharge Summary dt. 08.12.2011 issued by Andhra Pradesh Vidhya Parishad, which is an out patient ticket. It shows that the deceased has received compound fracture of both bones of right legs, POP applied and chest X-ray was prescribed. The Tribunal, on consideration of the contents of Charge sheet and the evidence of Pw.2 and Ex.A.3, awarded compensation of Rs.14,500/-.

Having regard to the facts and circumstances of the case, the Tribunal has considered all the aspects except loss of earnings suffered by the Appellant. Therefore, taking into consideration the income of the petitioner at Rs.3,000/- per month, loss of earning for a period of three months Rs.9,000/- is awarded (Rs.3,000 x 3). Except that, there are no grounds to interfere with the award passed by the Tribunal. Therefore, in all, the Appellant is awarded compensation of Rs.23,500/-.

In the result, this Appeal is partly allowed enhancing compensation from Rs.14,500/- to Rs.23,500/- with proportionate costs and interest at 7.5% per annum from the date of petition till

realization. The respondents are directed to deposit the amount within a period of one month from the date of receipt of a copy of this Order. On such deposit, the appellant is permitted to withdraw the amount.

Miscellaneous Petition, if any pending, in this case, shall stand dismissed.

GUDISEVA SHYAM PRASAD, J

Date: 31-07-2018
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