

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A.NO.2816 OF 2009

JUDGMENT:

This appeal arises out of order, dated 29.09.2006 in O.P.No.1283 of 2004 on the file of the Motor Accident Claims Tribunal (Fast Track Court) Nizamabad at Kamareddy.

2. Appellant is the claimant. She filed the claim petition under Section 166 (1) (a) of the Motor Vehicles Act, claiming compensation of Rs.2,00,000/- on account of the injuries sustained by her in the motor vehicle accident occurred on 25.01.2003, while she was travelling in an auto bearing No. AP 25U 3853.

3. The Tribunal on consideration of evidence held that the driver of the auto has driven the auto in a rash and negligent manner and awarded compensation of Rs.77,678/- against the 1st respondent owner of the crime vehicle and the 2nd respondent-National Insurance Company.

4. Aggrieved by the impugned award, this appeal is preferred for enhancement of compensation.

5. Heard, the arguments of the learned counsel for the appellant. None appeared on behalf of the respondents.

6. Admittedly, this is an accident occurred due to negligent driving of the vehicle in the public place. The petitioner is the injured in the accident. She received 3 grievous injuries. P.W.2-Dr.V.Akhilesh, who is the Medical Officer has deposed that on 31.07.2006, he examined the petitioner clinically and physically and on verification of records, he stated that the petitioner has sustained fracture of Ulna lower, fracture of Ulna left wrist and fracture of 8th

rib on the right side with malunion. The petitioner was assessed 25% permanent partial disability. Ex.C1 is the disability certificate produced by him. Ex.C1 is corresponding to Ex.A3-wound certificate issued by the Government Hospital. The Tribunal on consideration of the evidence of P.W.2, has awarded compensation of Rs.20,000/- to each grievous injury. Taking into account that the petitioner received 2 grievous injuries, the Tribunal awarded a sum of Rs.40,000/-.

7. Learned counsel for the appellant submits that the appellant has received 3 grievous injuries. But, the Tribunal has granted compensation only for 2 grievous injuries. The testimony of P.W.2 clearly reveals that the fracture of Ulna lower and fracture of Ulna left wrist are grievous in nature and fracture of 8th rib appears to be malunion. However, the compensation awarded by the Tribunal can be enhanced keeping in view of nature of injuries to Rs.50,000/-. The Tribunal has not awarded any amount towards fracture of 8th rib on the left side with malunion. Therefore, Rs.15,000/- is awarded as compensation towards rib fracture. The Tribunal has rightly awarded loss of earnings for 6 months at the rate of Rs.3,000/- per month, which comes to Rs.18,000/-. The Tribunal awarded an amount of Rs.9678/- towards medical expenses basing on the medical bills. The Tribunal awarded an amount of Rs.10,000/- towards pain and suffering and the same can be enhanced to Rs.20,000/- keeping in view of the nature of the injuries and the duration of the period the petitioner suffered. The Tribunal has not awarded any amount towards extra nourishment and attendant charges. Therefore, an amount of Rs.10,000/- is awarded towards extra nourishment and attendant charges for the said

period. In all, the appellant is entitled to compensation of Rs.1,22,678/-.

8. In the result, the appeal is partly allowed enhancing the compensation from Rs.77,678/- to Rs.1,22,678/- with proportionate costs and interest at the rate of 7.5% p.a. from the date of petition till the date of realization. The respondents are directed to deposit the amount within 30 days from the date of receipt of copy of this judgment. On such deposit, the appellant is permitted to withdraw the same. Miscellaneous petitions, if any pending in this appeal shall stand closed.

GUDISEVA SHYAM PRASAD, J

DATED: 27-07-2018

Hsd

