

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

M.A.C.M.A.No.581 OF 2006

JUDGMENT:

Dissatisfied with the amount of Rs.42,093/- granted as compensation by the order dated 02-11-2005, in MVOP.No.134 of 2002 on the file of Chairman, Motor Accidents Claims Tribunal-cum-XI Additional District Judge, (F.T.C.), Guntur at Tenali (for short “the Tribunal) as against the claim of Rs.1,35,000/- laid under Section 163-A of Motor Vehicles Act, 1988, (for short “the Act”) for the injuries sustained by the petitioner in a road accident, the present appeal is preferred by the appellant/claimant for enhancement of compensation.

The appellant herein is the petitioner, while respondents 1 and 2 owner and insurer of the crime lorry, are respondents 1 and 2, respectively in the original petition.

For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

The brief facts, which are necessary for disposal of this case, are as under:

The petitioner filed MV.OP.No.1341 of 2002 claiming compensation against respondents in respect of injuries sustained by him in a motor vehicle accident occurred on 25-10-2002 at about 12.00 noon while he was going to railway station on his Kenetic Scooty in Tenali and when he reached near old bridge, near Yadla Lingaiah Petrol Bunk. Due to traffic jam, the petitioner stopped his vehicle on his left side suddenly the driver of

the 1st respondent lorry in a rash and negligent manner without proper look out drove the vehicle on the left side of the petitioner. As such, the petitioner suffered grievous injuries and dislocation of his left ankle and also fracture. Thereafter, the petitioner was shifted to Government Hospital, Tenali and said incident was registered as Cr.No.181 of 2002. By that time, the petitioner is studying 1st year graduation in Tenali Town and he is hale and healthy. Hence, the petitioner claimed for compensation of Rs.1,35,000/-.

The 1st respondent filed counter denying allegations and stated that accident occurred due to rash and negligent driving of the petitioner himself and not due to negligent driving of the driver of the lorry. As such, the 1st respondent is not liable to pay any compensation. It is also stated that the 2nd respondent is liable to pay compensation, as the crime vehicle is covered by insurance policy.

During the course of trial, PWs 1 and 2 were examined and Exs A1 to A5 were marked. Ex.A.1 is First Information Report, which goes to show that accident is occurred and Ex.A.2 charge sheet in respect of the same, Ex.A.3 is wound certificate, Ex.A.4 is discharge summary and Ex.A.5 is receipts. Ex.X1 is case sheet.

PW.1 is claimant himself and PW.2, who is Doctor and basing on their evidence, compensation of Rs.42,093/- was awarded. Dissatisfied with the same, the present appeal is filed.

Learned counsel for the appellant submits that the compensation towards pain and suffering is Rs.5,000/-, which is very meagre as the petitioner suffered grievous injuries. He also submits that as per Sarala Verma's case '18' multiplier has to be applied to

the age group of the petitioner, instead the Tribunal has applied '16' multiplier only.

On the other hand, learned Standing Counsel for respondent No.2 submits that the application filed by the petitioner was under Section 163-A of the Act, as such, no amount can be awarded towards and pain and suffering. Regarding applying of multiplier, it was not disputed by learned standing counsel and he says that '18' multiplier has to be applied as per the judgment of Supreme Court in **Sarla Verma v. Delhi Transport Corporation**¹. He further says that though there is discharge certificate, the same cannot be a ground for granting compensation on the ground of loss of earnings due to accident.

It is to be seen that the Tribunal having considered the evidence of PW.2, who is the Doctor and has taken 20% permanent disability. Further as the petitioner is a student and non earning member, the Tribunal has taken notional income of Rs.15,000/- as per schedule II of the M.V.Act for determining the compensation for the loss of future earnings. The said aspect is not disputed by both counsel. It is to be seen that as the petitioner is aged 19 years as on the date of accident, as per **Sarla Verma**, proper multiplier is '18' to the said age group. Accordingly, loss of future earnings comes to Rs.180,000- (Rs.10000/- X 18) and 20% of the same comes to Rs.36,000/- towards loss of future earnings. The evidence of the petitioner is he was on bed for six months. In view of the same, Rs.15,000/- is granted towards pain and suffering, instead of Rs.5,000/-, and Rs.15,000/- is granted towards attendant charges

¹ (2009) 6 SCC 121

and nutrition charges instead of Rs.2,000/-, as granted by the Tribunal.

In view of the same, the petitioner is entitled for the amounts towards different heads in all are as under:

1.	Towards pain and suffering	Rs.15,000/-
2.	Towards loss of future earnings	Rs.36,000/-
3.	Towards attendant charges and nutrition charges	Rs.15,000/-
4.	Towards medical expenses	Rs.3,093/-
	Total	Rs.69,093=00

In the result, the petitioner is entitled for compensation of Rs.69,093/- (Rupees sixty nine thousand ninety three only) as against compensation of Rs.42,093/- with interest @ 7.5% per annum from the date of petition till realization.

Accordingly, the instant appeal is partly allowed modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above and confirming the same in all other respects. There shall be no order as to costs. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A.RAJASHEKER REDDY, J

01-02-2018
Nvl