

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A No. 1464 of 2009

JUDGMENT:

This appeal is arising out of the Order dated 20.02.2007 passed in O.P.No.106 of 2003 by the Chairman (I Additional District Judge) Motor Accidents Claims Tribunal, Vizianagaram. The appellant is the petitioner, who filed the above O.P. under Section 166 of the Motor Vehicles act, claiming compensation of Rs.1,20,000/- against the respondents 1 and 2, on account of the injuries sustained by him in a motor vehicle accident that occurred on 20.06.2002 when the auto bearing No.AP 30T 7215, in which he was travelling, turned turtle due to the rash and negligent driving of the driver of the auto.

The Tribunal, on consideration of the evidence of witnesses PWs.1 and 2 and the documents Exs.A1 to A7, and Exs.B1, X1 and X2, has awarded compensation of Rs.17,000/- with proportionate costs and interest at 7.5% per annum against respondents 1 and 2.

Aggrieved by the impugned order, this appeal has been preferred by the petitioner for enhancement of compensation.

2. Heard the arguments of learned counsel for the appellant and respondents.

3. Learned counsel for the appellant mainly submitted that the Tribunal has not considered the disability suffered by the petitioner and, therefore, no amount has been awarded towards the permanent

disability of 40% sustained by the petitioner due to the injuries sustained by him in the accident.

4. Learned counsel for the respondents submits that there is discrepancy in the evidence of PW.2 medical officer, and Ex.A7-disability certificate issued by District Medical Board, Srikakulam. As per the disability certificate, the injury sustained by the petitioner was shown as injury on the left thigh, whereas, the evidence of PW2 is that the petitioner has suffered injury to his right thigh. Even as per Wound Certificate-Ex.A2, the injury suffered by the petitioner is on the right thigh. In view of this discrepancy, the Tribunal did not consider the percentage of disability, placing reliance on the evidence of PW.2. Therefore, there is no reason to differ with the view taken by the Tribunal in this regard.

5. It is seen from the record that the Tribunal has awarded Rs.1,000/- towards loss of earnings for three months. The petitioner is said to have suffered one grievous injury and one simple injury and he was treated as inpatient for three months in the hospital, and Ex.X1-case sheet shows that he has taken treatment in the hospital during the said period. The Tribunal has taken the income of the petitioner as Rs.50/- per day and awarded Rs.1,000/- towards loss of past earnings.

6. The minimum income of the petitioner can be taken as Rs.100/- per day as he was working as labourer in firewood

business and, hence, the notional income of the petitioner comes to Rs.3,000/- per month. Therefore, the petitioner is entitled to Rs.9,000/- for loss of earnings for three months. The Tribunal has granted Rs.10,000/- towards transport to hospital, medicines and extra nourishment. As per Ex.A6-bunch of medical bills which are 13 in number, shows that the medical expenditure of Rs.8,212/-. If the notional expenses towards transport, extra nourishment and attendant charges are taken into consideration, it would be definitely more than Rs.10,000/- and, therefore, an amount of Rs.20,000/- is awarded under these Heads.

7. In view of the submissions made by the learned counsel for the petitioner, and respondent, and in the light of the evidence available on record, the compensation is enhanced as shown in the following tabular format.

S.No.	Head	Compensation awarded by the Tribunal	Compensation enhanced
1.	Pain and suffering for one simple and one grievous injury	Rs.6,000/-	Rs.15,000/-
2.	Transport, medicines, extra nourishment and attendant charges	Rs.10,000/-	Rs.20,000/-
3.	Loss of earnings for three months	Rs.1,000/-	Rs.9,000/-
	Total	Rs.17,000/-	Rs.44,000/-

8. In the result, the appeal is partly allowed by enhancing the compensation awarded by the Tribunal from Rs.17,000/- to Rs.44,000/- 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 of the compensation within one month from the date of receipt of a copy of this order; and, on such deposit, the appellant-claimant is permitted to withdraw the same. Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

22nd June, 2018

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