

HONOURABLE SRI JUSTICE T. AMARNATH GOUD

M.A.C.M.A.No.193 of 2014

JUDGMENT :

Aggrieved by the award passed by the Additional Motor Accidents Claims Tribunal-cum-XVI Additional Chief Judge-cum-II Additional Metropolitan Sessions Judge, Hyderabad (in short 'the Tribunal'), granting compensation of Rs.65,294/- (Rupees sixty five thousand two hundred and ninety four only) in M.V.O.P . No.1829 of 2009, the petitioner in O.P. preferred this appeal under Section 173 of Motor Vehicles Act, 1988.

2. The appellant herein is the petitioner in M.V.O.P.No.1829 of 2009, Respondents Nos. 1 and 2 herein, are the owner and insurer of the car bearing No. AP-24-X-3138, which involved in accident dated 21.01.1999.

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

4. The facts in brief are that on 08.08.2009 at about 9.30 a.m. the petitioner was proceeding on a bike bearing No. AP-24-N-6778 from BMR Koheda puncture shop towards KMC side that before approaching Gandicheruvu X Road, at that time the driver of the tipper lorry bearing No. AP - 24-X-3138 drove the same in a rash and negligent manner and dashed against the petitioner in front of bottles company main road, due to which the claim petitioner sustained injuries. The Station House Officer, Hayath Nagar Police Station registered a case in Crime No. 391/2009 for the offence under Section 338 IPC against the driver of the tipper lorry. The petitioner further asserted that he incurred a sum of Rs.50,000/- towards medical expenses and that on account of the injury sustained he is

suffering and unable to attend his labour work, Hence R1 and R2 owner and insurer of the crime vehicle are liable to pay the compensation.

5. During the course of trial, the petitioner examined himself as PW 1 and got marked Exs.A1 to A9 to substantiate his claim. On behalf of the respondent No.2, Ex.B1 – True extract of insurance policy is examined. As it was an evident from the testimony of the PW.1 that the driver of the Tipper lorry bearing No. AP-24-X-3138 caused accident to him by driving the car in negligent manner, the Tribunal relying on the consistent evidence of P.W.1 and the content of Exs. A.1 to A.3, recorded the finding that the accident was resulted in on account of the rash and negligent driving of the driver of the tipper lorry bearing No. AP-24-X-3138, in which the claim petitioner sustained injuries and awarded a total compensation of Rs.65,294/- to him and made the respondents 1 and 2 liable to pay such compensation jointly and severally together with interest.

6. One of the grounds urged by the petitioner is that the Tribunal ought to have appreciated that the petitioner was inpatient from 08.08.2009 to 14.08.2009 and surgery was performed on 09.08.2009 in Sai Sharan Orthopaedic Hospital, the injuries are grievous in nature and as per Doctor's evidence, the petitioner need 6 months bed rest to heal from the injuries and the petitioner cannot do labour work. The petitioner had also incurred Rs.30,000/- towards discharge bill and as per Ex.A-7 bunch of medical bills he incurred Rs.7,294/-.

7. Heard the counsel for the petitioner and the respondents.

8. Perused the order under challenge and evidence on record. Verified Ex.A – Discharge summary of Sai Saran Hospital, Ex.A5 – Discharge bill, Ex.A6 – Receipt, Ex.A7 – bunch of medical bills (9 nos.), Ex.A8 – C.C. of medico legal record and Ex.A9 – copy of Insurance policy.

9. The pain and trauma, which the petitioner is put to suffer on account of median nerve and flexor tendon cut injury on right hand and fracture of distal and radius, though cannot be compensated in terms of money, considering the nature of injuries and their effect, reasonable sum might have been awarded by the Tribunal towards compensation for both the injuries. As the amount of Rs.10,000/- for injury No.1 and a sum of Rs.12,000/- for injury No.2 awarded by the Tribunal under the head of pain and suffering appears to be low, the same is enhanced to Rs.20,000/- for each injury. Rs. 15,000/- is also awarded as Compensation under the Head of extra nourishment.

10. In view of the above, it is made clear that the compensation awarded by the Tribunal under the head of pain and suffering alone is revised apart from awarding Rs.15,000/- towards the compensation under the head of extra nourishment and the rest of the order of the Court below remained unchanged.

11. Compensation which he has entitled to get different heads are as follows:

Sl.No.	Particulars	Amount Rs.
1.	Compensation for both the injuries (Rs.20,000/- for each injury)	40,000/-
2.	Medical Expenses	37,294/-
3	Extra nourishment	15,000/-
4.	Loss of earning	6,000/-
	Total compensation	98,294/-

Thus the petitioner is entitled to get compensation of Rs.98,294/- as against Rs.65,294/-

12. In the result, the appeal is allowed in the light of partial modification of the award of the Tribunal. In view of partial modification of the award of

the Tribunal the petitioner gets compensation of Rs.98,294/-. The enhanced compensation amount carries interest @ 7.5 %. Respondent 1 and 2 have to pay the enhancement compensation to the petitioner together with interest @ 7.5% per annum from the date of filing of the petition till realisation.

Consequently, miscellaneous petitions pending, if any, in this appeal shall stand closed. No costs.

JUSTICE T. AMARNATH GOUD

Date : 16.11.20o18

JR



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