

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

MACMA.No.1419 of 2009

JUDGMENT:

This appeal is arising out of order, dated 28.7.2004, in OP.No.1018 of 1998 on the file of the Motor Accident Claims Tribunal-cum-District Judge, Nizamabad (for short 'the Tribunal').

The appellant is the petitioner who filed the claim petition under Section-166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.1 lakh on account of the injuries suffered by him in a motor vehicle accident.

The brief facts of the case, as stated in the Claim Petition, are that on 08.7.1998, while the appellant along with other persons was standing at Gonugupla Village Bus station, suddenly a TVS Moped bearing registration No.AP-25/E-1073 driven by its driver in a rash and negligent manner coming from Bheemgal side at a high speed lost control and dashed against the appellant. The appellant sustained fracture injury to leg, injuries to fore head, right hand and also on various parts of the body and he was shifted to Government Hospital, Armoor. He took treatment in the said hospital and incurred medical expenses of Rs.30,000/-. He was earning Rs.3,000/- per month by doing agricultural work on contract basis and that due to the injuries he suffered in the accident, he became permanently

disabled. Therefore, he claimed compensation of Rs.1 lakh against respondent Nos.1 and 2.

The Tribunal on considering the evidence of P.Ws.1 to 3 and the documents-Exs.A-1 to A-5 awarded compensation of Rs.45,000/- with interest at 9 % per annum. Being dissatisfied with the quantum of compensation awarded by the Tribunal, this appeal has been preferred by the claimant.

Heard the arguments of Sri Jalli Kanakaiah, learned counsel for the appellant, and Sri Kota Subba Rao, learned Standing Counsel for respondent No.2-Insurance Company.

Learned counsel for the appellant submitted that the Tribunal has not considered the Disability Certificate-Ex.A-5 issued by P.W-1 showing that the appellant suffered 60% disability and therefore, sought for enhancement of compensation based on the said certificate.

In *Nanjappa Vs. National Insurance Company*¹, the Hon'ble Apex Court held that the claimants are entitled to just and reasonable compensation.

In view of the aforesaid judgment of the Supreme Court, the claimants are entitled to just and reasonable compensation. It is the duty of the Tribunal to fix just and reasonable compensation and award the same to the parties though they made a claim petition for a lesser amount.

¹ (2003) 1 SCJ 12

It is an admitted fact that the appellant was an agricultural labourer and was also a toddy taper and he suffered 60% disability, i.e, fracture of both bones of right leg, restricted movements of his right knee and ankle joint, post traumatic stiffness of elbow, right ankle and right knee, due to the accident. If his monthly income is taken as Rs.3,000/- per month, his annual income comes to Rs.36,000/-. The appellant was aged 25 years by the date of the accident. Taking into account the injuries suffered by the appellant, the pain and suffering undergone by him and the disability of 60% suffered by him on account of the accident, this Court is of the opinion that the compensation awarded by the Tribunal towards the disability is very meagre and therefore, the same is enhanced to Rs.1,00,000/-.

Further, the compensation granted by the Tribunal is modified as under:

Head	Compensation awarded by the Tribunal	Compensation enhanced by this Court
Disability	Rs.20,000/-	Rs.1,00,000/-
Pain and suffering	Rs.5,000/-	Rs.25,000/-
Loss of earnings	Rs.18,000/-	Rs.18,000/-
	Total:	Rs.1,43,000/-

In the result, the appeal is partly allowed, awarding compensation of Rs.1,43,000/- with proportionate costs and interest at 7.5% per annum from the date of OP till the date of realisation. The respondents are directed to deposit the amount within one month from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the same without furnishing any security.

22nd June, 2018

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JUSTICE GUDISEVA SHYAM PRASAD

