

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.2225 of 2009

JUDGMENT :

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is preferred by the appellant-petitioner seeking enhancement of compensation challenging the judgment and decree dated 05.11.2007 in O.P.No.166 of 2006 passed by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Adilabad District (for brevity "the Tribunal"), awarding compensation of Rs.76,485/- as against the claim of Rs.1,40,000/- laid by him under Sections 166 and 163-A of the Act, towards the injuries sustained by him in a motor accident that occurred on 08.06.2005.

The brief facts of the case are that on 08.06.2005, while the appellant-petitioner along with others was travelling in an Auto bearing No.AP-1U-5309 from Edevelli Village to Singaraopet Village, due to the rash and negligent driving by the driver of the auto, it dashed against a Lorry bearing No.AP-17H-446 coming in opposite direction on Inter-State Highway of Buruguda Village, in which the appellant sustained fracture to his both bones of right leg, injury on hip, injury to little toe and injuries to others parts of the body. The appellant was immediately shifted to the

Government Hospital, Asifabad and from there he was taken to Dr. Madhu's Hospital and he was again admitted in Sri Satya Vijaya Maternity and Orthopaedic Hospital at Mancherial, where he underwent treatment. Therefore, the appellant filed the above O.P. claiming compensation of Rs.1,40,000/- against respondent Nos.1 and 2, who are owner and insurer, respectively, of the crime auto.

Respondent No.1 – owner of the auto remained exparte. Respondent No.2 – insurer filed counter denying its liability and contended that the claim of the appellant is excessive and that the driver of the crime auto was not having valid and subsisting driving licence and hence sought for dismissal of the claim petition. On consideration of the evidence of witnesses PWs.1 to 3 and the documentary evidence under Exs.A.1 to A.10 adduced on behalf of the appellant, and Ex.B.1 – copy of Insurance Policy adduced on behalf of respondent No.2 – insurer, and also the material on record, the Tribunal awarded a compensation of Rs.76,485/- with interest @ 7.5% per annum from the date of petition till the date of deposit. Aggrieved by the same, the appellant-petitioner has filed the present Civil Miscellaneous Appeal.

Heard Sri S. Surender Reddy, learned counsel for the appellant-petitioner. None appeared for the respondents. Perused the material on record.

Learned counsel for the appellant-petitioner submits that the compensation awarded by the Tribunal is not just and reasonable. It is contended that though the appellant suffered one grievous injury and two simple injuries, the Tribunal awarded only Rs.28,000/- for the same. It is contended that the appellant is aged about 37 years and a labourer by profession. Because of the injuries sustained by the appellant, he may not be able to attend to his regular work as a labourer. Therefore, the compensation awarded by the Tribunal is not just and reasonable.

As seen from the evidence of PWs.2 and 3 – Medical Officers, who treated the appellant, coupled with the documentary evidence under Exs.A.4 and A.6, Medical Certificates issued by Satya Vijaya Orthopaedic Hospital and Dr. Madhu's Hospital, respectively, the appellant suffered one grievous injury and two simple injuries, besides transportation charges. Therefore, the compensation of Rs.28,000/- awarded by the Tribunal towards pain and suffering on account of the said injuries is not just and reasonable and the same is enhanced to Rs.55,000/-. As far as the disability is concerned, PWs.2 and 3 treated the appellant. Though in his evidence, PW.3 has stated that the appellant suffered 30% permanent disability, he has not issued any Certificate to prove the same. Therefore, the appellant is not entitled for any amount towards disability.

Admittedly, the appellant is an agricultural labourer and he had taken treatment for a long time. Therefore, he must have suffered loss of earnings. Therefore, it is reasonable to award a sum of Rs.3,000/- per month for a period of 3 months towards loss of earnings, which comes to Rs.9,000/- (Rs.3,000/- x 3 = Rs.9,000/-).

The compensation of Rs.48,485/- awarded by the Tribunal towards Medical expenses under Exs.A.5, A.7, A.8 and A.9 is just and reasonable.

Thus the compensation awarded by the Tribunal under various heads is enhanced as mentioned below:

Compensation towards	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.
1. Pain and suffering for 1-grievous injury and 2-simple injuries and Transportation	28,000.00	55,000.00
2. Loss of earnings	--	9,000.00
3. Medical expenses	48,485.00	48,485.00
TOTAL :	76,485.00	1,12,485.00

In the result, the Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.76,485/- to Rs.1,12,485/- (Rupees one lakh twelve thousand four hundred and eighty five only) with interest

@ 7.5% per annum from the date of petition till the date of realization. The respondents are directed to deposit the entire amount of compensation within one month from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the same. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

03.08.2018.
Msr

JUSTICE G. SHYAM PRASAD



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