

The Hon'ble Sri Justice Gudiseva Shyam Prasad

MACMA.No.801 of 2009

Date: 22.06.2018

Judgment:

This Appeal arises out of Order, dated 12-04-2006, in MVOP.No.526 of 2003 on the file of the Motor Accidents Claims Tribunal –cum- III Additional District Judge, Tirupathi, Chittoor District (for short 'the Tribunal').

The appellant filed the aforementioned MVOP under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.5 lakhs for the injury sustained by him in a motor accident that occurred on 01-01-2003. The Tribunal, on consideration of the evidence on record, has awarded a compensation of Rs.2,12,330/- with interest @ 7.5% p.a., from the date of the petition till the date of realization against respondent Nos.1 and 2, who are the owner and insurer respectively of the Crime Vehicle. Seeking enhancement of the said compensation, the appellant has preferred this Appeal.

Heard the learned Counsel for the appellant and the learned Counsel for respondent No.2- insurer.

Learned Counsel for the appellant submits that the Tribunal has not taken into consideration the disability suffered by the appellant at 40% and has also failed to grant compensation under the heads- damage to clothes, transport expenses and the loss of future prospects.

A perusal of the record shows that the petitioner was minor aged about 16 years as on the date of the accident. He suffered two grievous injuries. As per the evidence of PW.3- Medical Officer, the petitioner was admitted in the hospital on 01.01.2003 with injuries, Dr.Ashokan, General Surgeon, performed operation and discharged him on 27-01-2007. He further deposed that the petitioner was referred to PW.4- Dr.Chinnaswamy, who is an Urologist; that he was admitted in the hospital on 14-03-2003; that he underwent two major surgeries for the fracture of pelvic bone and urinary track on 15.04.2003; and that he was discharged on 24-04-2003. Ex.A.3 is the Wound Certificate issued by him, Ex.C.1 is the Discharge Summary and Ex.C.2 is the Disability Certificate issued by him.

The oral evidence of PWs.3 and 4 coupled with the documentary evidence such as Exs.C.1 to C.3 and Exs.A.3 and A.5, shows that the petitioner received fracture of pelvic bone and

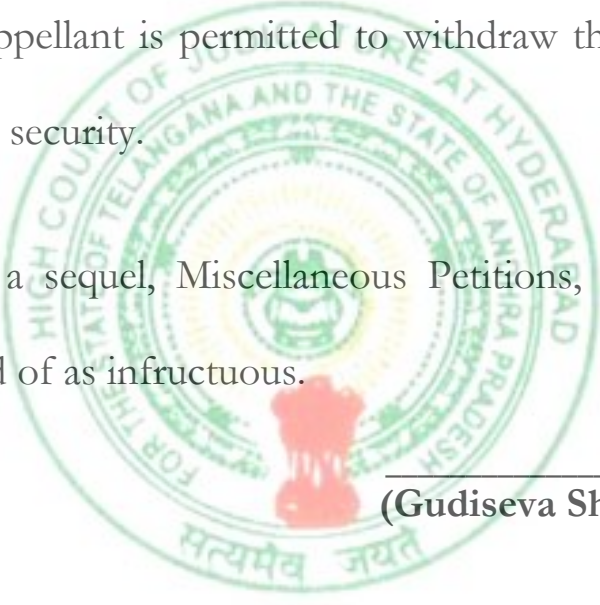
received two injuries, which are grievous in nature. The petitioner was also treated as inpatient in two spells for a total period of 38 days. The Tribunal has awarded Rs.50,000/- towards pain and suffering.

In my considered view, the compensation awarded by the Tribunal is inadequate in view of the nature of the injuries and the treatment undergone by the petitioner. It is obvious that the petitioner might have incurred some expenditure towards damage to clothing, transport expenses and loss of future prospects. In view of the same, the amount of Rs.25,000/- is awarded under these heads.

As regards the contention of the learned Counsel for the appellant that the percentage of disability suffered by the appellant was 40%, PWs.3 and 4- Medical Officers categorically deposed that the percentage of disability suffered by the appellant is 20%. Ex.C.2- Disability Certificate also shows that the percentage of disability suffered by the appellant is 20%. The learned Counsel for the appellant has not putforth any other evidence in support of his contention. Hence, his contention cannot be countenanced.

In the result, the Appeal is partly allowed by enhancing the compensation of Rs.2,12,330/-, as awarded by the Tribunal, to Rs.2,37,330/- with proportionate costs and interest @ 7.5% from the date of the petition till the date of realization. Respondent No.2- insurer is directed to deposit the entire compensation before the Tribunal within one month from the date of receipt of a copy of this order. The amount, if any already deposited by respondent No.2- insurer, shall be given credit to. On such deposit, the appellant is permitted to withdraw the same without furnishing any security.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.


(Gudiseva Shyam Prasad, J)

Dt: 22nd June, 2017
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