

**HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

**M.A.C.M.A. No.2894 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 order and decree dated 24.10.2008 in O.P.No.74 of 2007 passed by the Motor Accidents Claims Tribunal (District Judge) at Karimnagar (for brevity "the Tribunal"), awarding compensation of Rs.1,84,000/- as against the claim of Rs.3,00,000/- laid by him under Section 166 (1)(a) of the Act, towards the injuries sustained by him in a motor accident that occurred on 24.06.2006.

The brief facts of the case are that the appellant is maintaining a Welding Shop and earning Rs.6,000/- per month. On 24.06.2006, while the appellant along with his wife was proceeding in an Auto bearing No.AP-15V-2861 towards Karimnagar for delivery of his wife, when the Auto reached the main gate of RTC Workshop, Karimnagar, due to the rash and negligent driving by the driver of the auto, it hit the road side divider due to which the auto turned turtle and the appellant received internal injuries in abdomen region viz., (1) Pelvis fracture; (2) Inferior and superior pubic rami left side; (3) Joint fracture of left hip; (4) Extra parietoneal

rupture of bladder with haematoma; (5) High grade small bowel obstruction; and (6) Contusion of pelvis colon and descending colon with rethoperitoneal hematoma, all of which are grievous in nature. The appellant was shifted to Dr. Shivaramakrishna Hospital, Karimnagar and thereafter on the advice of Dr. Shivaramakrishna, he went to Yashoda Hospital, Secunderabad. He underwent surgery and was treated conservatively. Therefore, the appellant filed the above O.P. claiming compensation of Rs.3,00,000/- against respondent Nos.1 and 2, who are owner and insurer, respectively, of the crime auto.

Before the Tribunal, both respondent Nos.1 and 2 filed counters denying their liability and contended that the claim of the appellant is excessive and that the driver of the crime auto was not having valid driving licence and hence sought for dismissal of the claim petition. On consideration of the evidence of witnesses PWs.1 to 4 and the documentary evidence under Exs.A.1 to A.12 and Exs.C.1 and C.2 adduced on behalf of the appellant, and also the evidence of RWs.1 and 2 and documentary evidence under Exs.B.1 and B.2, which are copy of Insurance Policy and Extract of driving licence, respectively, adduced on behalf of the respondents, and also the material on record, by the aforesaid order and decree dated 24.10.2008, the Tribunal awarded compensation of Rs.1,84,000/- with interest @ 7.5% per annum from the

date of petition till realisation against respondent Nos.1 and 2. The Tribunal directed that the decretal amount shall be deposited within one month and on such deposit, the appellant was permitted to withdraw Rs.75,000/- and the balance amount was directed to be kept in Fixed Deposit in any Nationalised Bank for a period of two years. Aggrieved by the same, the appellant-petitioner has filed the present Civil Miscellaneous Appeal.

Heard Sri Vemuganti Ramachandar Rao, learned counsel for the appellant and Sri A. Ramakrishna Reddy, learned Standing Counsel for respondent No.2 – The United India Insurance Company Limited. Perused the material on record.

Learned counsel for the appellant submits that the Tribunal has not taken into consideration the nature of injuries sustained by the appellant and the resultant effect of it. It is submitted that the appellant underwent 3 operations and after the injuries, he is unable to attend to his regular duties as a Welder. It is submitted that the appellant also lost the future prospects of marital life due to the extra parietoneal rupture of bladder with haematoma.

Learned counsel for the appellant placed reliance on a decision of the Apex Court in G. RAVINDRANATH v. E.

SRINIVAS<sup>1</sup> and submitted that the Hon'ble Apex Court has awarded pecuniary damages in a similar case awarding compensation of Rs.20,20,000/- under various heads and, therefore, requested to consider the same in this case also.

On the other hand, the learned Standing Counsel for respondent No.2 – insurer opposed for enhancement of compensation and submitted that the Tribunal has rightly awarded compensation basing on the evidence on record. It is submitted that though the appellant contends that he has suffered grievous injuries, as he has not filed any Disability Certificate to prove the same, the Tribunal has not granted any amount towards permanent disability and, therefore, sought for dismissal of the appeal.

At the outset, this is a case of injuries suffered by the appellant, who is a Welder by profession. The appellant suffered 6 grievous injuries. PWs.2 to 4 are the Medical Officers, who treated the appellant. PW.4 – Dr. Shivaramakrishna, Orthopaedician, deposed that the appellant suffered extra peritoneal rupture of bladder and hemo peritoneum and contusion of pelvis. He stated that the appellant was discharged on 10.07.2006 and Exs.A.6, A.7 and A.8 were issued by their Hospital. Ex.A.3 – Wound Certificate was issued by Dr. Shivaramakrishna Hospital, Karimnagar. The Tribunal, on consideration of the evidence

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<sup>1</sup> AIR 2013 SUPREME COURT 2974

on record, has awarded an amount of Rs.1,47,000/- towards treatment and medicines. The nature of treatment undergone by the appellant clearly discloses that he has suffered grievous fractures to the pelvis, hip joint and other vital parts of the body. Therefore, I do not find any reason to interfere with the above amount awarded by the Tribunal towards treatment and medical expenses.

As far as the amount of Rs.20,000/- awarded towards pain and suffering is concerned, it is inadequate for the injuries suffered. Therefore, it is enhanced to Rs.1,00,000/-.

The Tribunal has awarded a sum of Rs.12,000/- towards loss of earnings by taking the income of the appellant @ Rs.2,000/- per month for a period of 6 months. The evidence on record shows that the appellant was a skilled worker, therefore, his notional income can be taken @ Rs.3,000/- per month. Thus, the compensation awarded towards loss of earnings is enhanced from Rs.12,000/- to Rs.18,000/- (Rs.3,000/- x 6).

The Tribunal has awarded a sum of Rs.5,000/- towards transportation charges. Since the appellant had undergone treatment in different Hospitals at Karimnagar and Hyderabad, it is reasonable to award an amount of Rs.20,000/- towards transportation charges. The Tribunal has not awarded any amount towards 'loss of expectancy of

life and loss of marital life and discomfort'. In fact, no amount is sufficient to compensate them. An amount of Rs.25,000/- is awarded for the aforementioned heads. The Tribunal has not granted any amount towards 'extra nourishment, and attendant charges', therefore, a sum of Rs.20,000/- is awarded under the said head.

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

| Compensation towards                                                | Amount awarded<br>by the Tribunal<br>Rs. | Amount awarded<br>by this Court<br>Rs. |
|---------------------------------------------------------------------|------------------------------------------|----------------------------------------|
| 1. Pain and suffering                                               | 20,000.00                                | 1,00,000.00                            |
| 2. Loss of earnings                                                 | 12,000.00                                | 18,000.00                              |
| 3. Treatment & medicines                                            | 1,47,000.00                              | 1,47,000.00                            |
| 4. Loss of expectancy and<br>Loss of marital life and<br>discomfort | --                                       | 25,000.00                              |
| 5. Extra nourishment and<br>attendant charges                       | --                                       | 20,000.00                              |
| <b>TOTAL :</b>                                                      | <b>1,84,000.00</b>                       | <b>3,10,000.00</b>                     |

In the result, the Civil Miscellaneous Appeal is allowed, enhancing the amount of compensation from Rs.1,84,000/- to Rs.3,10,000/- (Rupees three lakhs ten thousand only) with interest @ 7.5% per annum from the date of petition till the date of realization. The appellant-petitioner is directed to pay Court Fee on the amount awarded by this Court over and

above the claim made by him. 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.

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JUSTICE G. SHYAM PRASAD

03.08.2018.  
Msr



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