

THE HON'BLE SRI JUSTICE A. RAJASEKHAR REDDY

M.A.C.M.A.No.452 of 2006

JUDGMENT:

Dissatisfied with the quantum of compensation of Rs.15,000/- out of the total claim of Rs.1,00,000/- by the Award, dated 09.11.2005, passed in O.P.No.2822 of 2002 by the Chairman, Motor Vehicles Claim Tribunal-cum-XII Addl. Chief Judge, Red Hills, Nampally, Hyderabad, the claimant is before this Court as appellant.

2. The facts of occurrence of road accident on 28.10.1997 and the claimant sustaining injuries in the said accident are not in dispute. The claimant is only seeking enhancement of compensation in this appeal.

3. During hearing, Sri V. Atchuta Ram, learned counsel for the appellant/claimant submits that the claim of Rs.1,00,000/- itself is meagre and granting compensation of Rs.15,000/- by the Tribunal is on lower side. He further submits that the Tribunal has not granted any compensation towards the injuries suffered by the claimant, though the Tribunal has accepted the evidence of the claimant who deposed as PW.1, with regard to the injuries sustained by him. Further, the Tribunal granted meagre compensation towards pain and suffering, medical expenses, transport charges and extra nourishment and therefore, prays to enhance the same.

4. Learned counsel for the respondents supported the order of the Tribunal in all respects and contended that the Tribunal, after consideration of the material produced before it, granted Rs.15,000/- towards compensation, which is reasonable and prayed to dismiss the appeal.

5. In view of the above rival contentions, the point that arise for determination in this appeal is:

“Whether the compensation awarded by the Tribunal is just and reasonable in the facts and circumstances of the case or whether the same is required to be enhanced?”

6. POINT: As already stated supra, the occurrence of the accident and the claimant sustaining injuries in the said accident are not in dispute. Though the claimant contended that he incurred Rs.30,000/- towards medical expenses and filed Exs.A.7 and A.8 –bunch of Medical Bills, the Tribunal, observing that the doctor who treated the claimant was not examined, awarded Rs.5,000/- towards medical expenses. As rightly observed by the Tribunal, since the doctor who treated the claimant was not examined, the Tribunal rightly awarded an amount of Rs.5,000/- towards medical expenses and there is nothing to interfere with the same.

7. As per the material on record, the claimant received four injuries, i.e., fracture of medial malleoli (ankle) of left foot, a degloving injury to the left foot and leg and several deep lacerated wounds and abrasions. Admittedly, no compensation

was granted by the Tribunal in respect of the said injuries. Therefore, this Court deems it appropriate to award Rs.4,000/- to each injury. Thus, an amount of Rs.16,000/- (Rs.4,000/- x 4) can be granted for the injuries suffered by the claimant.

8. Admittedly, the claimant took treatment in CDR Hospital, Visakhapatnam, as an in-patient from 28.10.1997 to 17.11.1997, but the Tribunal did not award any compensation under the head 'loss of earnings' on the ground that the petitioner was a student. As per the Judgment of the Apex Court in *Syed Sadiq and others v Divisional Manager, United India Insurance Company Limited*¹, even for the persons who are employed in unorganised sector, loss of earnings can be taken as Rs.6,500/- per month. Since the petitioner lost 18 days income, this Court deems it appropriate to award an amount of Rs.4,000/- towards loss of earnings.

9. The Tribunal granted only Rs.500/- towards extra nourishment, though the petitioner is said to have been admitted in the hospital and took treatment for 18 days as in-patient. In the circumstances, this Court deems it appropriate to enhance the amount awarded by the Tribunal under the head 'extra nourishment' from Rs.500/- to Rs.5,000/-. The Tribunal awarded an amount of Rs.7,500/- towards compensation for pain and suffering and Rs.2,000/- towards transportation to hospital and the same appears to be just and reasonable in the facts and

¹ (2014) 2 SCC 735

circumstances of the case. Thus, the total compensation payable to the claimant under different heads is as follows:

Head	Amount
Compensation for pain and suffering	Rs.7,500/-
Injuries (Rs.4,000/- x 4)	Rs.16,000/-
Loss of earnings	Rs.4,000/-
Extra nourishment	Rs.5,000/-
Pain and Suffering	Rs.7,500/-
Transportation Charges	Rs.2,000/-
Medical expenses	Rs.5,000/-
TOTAL	Rs.47,000/-

10. The Tribunal awarded interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit of the amount into the Court and the same appears to be just and reasonable in the facts and circumstances of the case.

11. Accordingly, the claimant is entitled for a total compensation of Rs.47,000/- with interest at the rate of 7.5% on enhanced compensation. The impugned Award of the Tribunal is modified to the extent indicated above and the Appeal is allowed part enhancing compensation to Rs.47,000.

Miscellaneous petitions, if any, pending in this appeal, shall stand closed.

A.RAJASEKHER REDDY, J

08th March, 2018
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