

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.NO.132 OF 2014

JUDGMENT:-

This appeal is filed by the appellant/claimant under Section 173 of the Motor Vehicles Act,1988, being aggrieved by the award, dated 10-08-2009, passed by the Motor accidents Claims Tribunal-cum-Principal District Judge, Medak at Sangareddy in O.P.No.337 of 2006, awarding compensation of Rs.4,14,400/-.

2. The claimant filed the above O.P under Section 166 of the Motor Vehicles Act initially claiming compensation of Rs.5,00,000/- and later enhanced to Rs.10,00,000/- as per orders in I.A.No.733 of 2008, dated 11-06-2008, on account of the injuries sustained by him in a motor vehicle accident that occurred on 12-12-2005.

3. The brief averments made in the petition are that on 12-12-2005 when the claimant was returning from Lachmanaik Thanda by walk, at that time at about 8.00 A.M when he reached graveyards of Anegunta village, one lorry bearing No. ADT 8283, belongs to the 1st respondent and insured with the 2nd respondent, being driven by its driver in a rash and negligent manner and dashed the claimant, due to which he fell down and the lorry ran over both legs of the claimant, as a result of which he sustained compound fractures of both legs. Later, on the complaint, police registered a case in Cr.No.162 of 2006 and filed charge sheet under Sections 337 and 338 IPC.

4. The first respondent remained *ex parte* before the trial.

5. The 2nd respondent filed a counter-affidavit denying the rash and negligent driving of the driver of the bus and that the accident occurred only due to the fault of the claimant but not the driver of the offending vehicle and that 2nd respondent also denies the driver of the lorry having a valid licence.

6. Basing on the above pleadings, the Tribunal framed three issues and to substantiate the claim Pws.1 and 2 were examined and Exs.A-1 to A-9 got marked. On behalf of the 2nd respondent none were examined and Exs.B-1 to B-3 got marked.

7. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the Lorry and in that accident the claimant suffered injuries and awarded compensation of Rs.4,14,400/- with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of realization.

8. Not satisfied with the compensation awarded by the Tribunal, the claimant preferred the present appeal.

9. The learned counsel for the appellant/claimant argued that the claimant is only earning member of the family and due to the said accident, he became permanently disabled; and that the compensation granted by the Tribunal is low and prayed to enhance the amount.

10. On that the other hand, the learned counsel for the 2nd respondent argued that the compensation awarded by the Tribunal is just and reasonable and the findings of the Tribunal need no interference, and prayed the Court to dismiss the appeal.

11. Having regard to the submissions made by the learned counsel for both the parties, the only point that arises for consideration is:-

“Whether the compensation awarded by the Tribunal is just and reasonable and whether the appellant is entitled for enhancement of compensation?

POINT:-

12. A perusal of the record shows that after considering the evidence of PWs.1 and 2, the Tribunal rightly held that the accident occurred due to rash and negligent driving of the offending vehicle and that the finding of the Tribunal needs no interference.

13. Coming to the issue of deciding the monthly income of the appellant, the Tribunal took the notional income of the appellant at Rs.2,000/- per month and took the multiplier “17”. The contention of the learned counsel for the appellant is that the appellant/claimant at the time of accident is earning is Rs.6,000/- per month as he is a milk and vegetable vendor. As can be seen from the evidence of PW.1 injured himself, he is earning Rs.6000/- per month and taking into consideration of his business, the Tribunal ought to have taken monthly income @ 3,500/- instead of Rs.2000/- and therefore, the loss of earnings of the appellant would come to Rs.3,500/- x 12 x 17 [Rs.7,14,000]. Further, a perusal of the record shows that the Tribunal granted an amount of Rs.6000/- towards loss of past earnings for a period of three months; and Rs.400/- towards medical expenditure in view of the bills submitted under Ex.A-6.

Therefore, this court feels that the Tribunal granted a reasonable amount in that aspects.

14. Thus, the total compensation payable to the appellant is Rs.7,20,400/-[Rs.7,14,000/- + 6000/- + 400/-].

15. Accordingly, the compensation awarded by the Tribunal is enhanced from Rs.4,14,400/- to Rs.7,20,400/-. With regard to interest is concerned, the rate of interest awarded by the Tribunal remains intact.

In the result, the Appeal is partly allowed. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.

Date: 16-11-2018.
TSNR



T.AMARNATH GOUD, J