

THE HON'BLE SRI JUSTICE M.GANGA RAO

M.A.C.M.A.No.289 OF 2011

JUDGMENT:

Appellant-claimant filed this appeal against the judgment and decree dated 09.07.2007 passed in O.P.No.805 of 2003 by the Chairman, Motor Accident Claims Tribunal (District Judge), Nizamabad, granting compensation of Rs.83,707/- as against the claim of Rs.2,00,000/- for the injuries sustained by him in the motor accident occurred on 19.09.2002.

Brief facts of the case are that on 19.09.2002 when the appellant was travelling as pillion rider on scooter bearing No.AP-25/E-7187 being driven by one Arun Kumar from Bodhan to Ranampally and when they reached Gundla Vagu at about 11.00 a.m. car bearing No.AP-11/D-6894 driven by its driver in a rash and negligent manner at high speed came in opposite direction and dashed against the scooter due to which the appellant as well as rider of the scooter both fell down and sustained multiple injuries. Alleging that he incurred Rs.1,50,000/- for his treatment, the appellant filed claim petition.

Respondent No.1 owner of the offending car was set *ex parte* before the Tribunal.

Respondent No.2-insurer of the car filed a written statement denying occurrence of the accident, involvement of the car in the said accident, manner of accident, rash and negligence on the part of the driver of the car, injuries sustained by the claimant in the accident and thereby denied its liability to pay the compensation.

Based on the above pleadings, the Tribunal framed the following issues for its consideration:

- 1) Whether the accident has taken place due to rash and negligent driving of vehicle bearing No.AP-11/D-6498 by its driver?
- 2) Whether the petitioner is entitled for compensation? If so to what just amount and against whom?
- 3) To what relief?

On behalf of the appellant, PWs 1 and 2 were examined and Exs.A.1 to A.8 were got marked. On behalf of the respondent-Insurance Company, though no oral evidence was adduced, Ex.B.1-copy of insurance policy was got marked.

The Tribunal based on the evidence of PW.1-appellant-injured coupled with documents under Exs.A.1 and A.2 held that the accident was occurred due to rash and negligent driving of the driver of the car. While determining the quantum of compensation to be awarded, the Tribunal has granted Rs.25,000/- each for two fracture injuries on vital parts of the body and Rs.2,000/- for the simple injury suffered by the appellant, thus, granted Rs.52,000/- towards pain and suffering. After carefully scrutinizing the medical bills submitted under Ex.A.5, the Tribunal has granted Rs.22,707/- towards medical expenses. Further, the Tribunal has granted Rs.9,000/- towards loss of earnings. Thus, in all, the Tribunal has granted Rs.83,707/- towards compensation along with costs and interest @ 7.5% per annum payable by respondents 1 and 2 from the date of petition till the date of realization. Aggrieved by the quantum of compensation, the appellant is before this Court.

Learned counsel for the appellant would contend that the Tribunal failed to award compensation towards disability; the Tribunal has not awarded any amounts towards transportation charges and extra nourishment; the Tribunal erred in awarding Rs.22,707/- towards medical expenses. Thus, he seeks enhancement of the compensation.

Per contra, learned counsel for the respondent-Insurance Company made his submissions in support of the impugned judgment.

As seen from the evidence of P.W.2-Dr.Jaya Prakash, he treated the injured from 19.09.2002 to 03.10.2002 and issued Ex.A.-3 wound certificate stating that the appellant sustained two grievous injuries and two simple injuries. It is his further evidence that again on 23.04.2007 he examined the appellant, verified the old medical records and issued Ex.A.8-Disability Certificate assessing the percentage of disability suffered by the appellant at 20%. But, in cross-examination he was unable to say as to whether the appellant took treatment in Government Hospital during the interregnum period. In those circumstances, the Tribunal has rightly rejected the claim of the appellant for compensation towards disability. This Court finds no ground to interfere with said finding of the Tribunal. In other aspects also, this Court finds no illegality or irregularity committed by the Tribunal in passing the impugned judgment and awarding the compensation. Hence, I see no good reasons to enhance the compensation awarded by the Tribunal.

Therefore, the appeal is dismissed.

Miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

30.11.2018
sur

