

THE HON'BLE MS.JUSTICE J.UMA DEVI
M.A.C.M.A.NOS.1679 AND 1711 OF 2010

COMMON JUDGMENT:

These appeals arise out of a common order, dated 05.07.2010 passed in O.P.Nos.1398 and 1399 of 2007 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge at Nalgonda.

2. Both these appeals are heard together for passing of a common judgment as they arise of the accident, dated 18.01.2007.

3. The appellants herein are the claimants in the above mentioned O.P.Nos.1398 and 1399 of 2007. They laid the claim for compensation against owner and insurer of Tata Sumo bearing No.AP-16-T-9435, due to negligent driving of which by its driver, they received injuries. Their case was that on 18.01.2007 while they were proceeding towards Rentachintala village on a motor cycle bearing No.AP-24-M-5244, the motor cycle was being driven by Galam Nagaiah, the claimant in O.P.No.1399 of 2007 and the claimant in O.P.No.1399 of 2007 was traveling in it as a pillion rider. While they were proceeding so, when they reached near Lakshmi Talkies at Mudugula cross road of Gurazala Town at 6.00 P.M., a Tata Sumo bearing No.AP-16-T-9435 came in their opposite direction from Macherla side in a rash and negligent manner and dashed against the

motor cycle in which, they were proceeding and the said accident was the main cause for receiving of grievous of injuries by them; and that they were shifted to the hospital of P.W.3 for treatment immediately after the accident. As the driver of the Tata Sumo bearing No.AP-16-T-9435 was responsible causing of accident, which resulted grievous injuries by them, they laid the claim for compensation against owner and insurer of the Tata Sumo bearing No.AP-16-T-9435.

4. The petitioners to prove that due to negligent driving of the Tata Sumo bearing No.AP-16-T-9435 by its driver, the accident dated 18.01.2007 occurred and in the said accident, they received injury, examined themselves as P.Ws. 1 and 2. During the course of their examination, they reiterated what they deposed in their affidavits filed in lieu of their chief-examination.

5. The learned trial Judge relying on the oral testimony of P.Ws.1 and 2, the claimants in O.P.Nos.1398 and 1399 of 2007 (appellants herein) came to the opinion that due to negligent driving of Tata Sumo bearing No.AP-16-T-9435, against whom the police registered a crime, held that the accident, dated 18.01.2007, which resulted in grievous injuries to them was caused by the driver of the Tata Sumo bearing No.AP-16-T-9435.

6. The contention of the appellants was that though they could establish that they received several fracture injuries and that they incurred huge expenditure towards treatment, the Court below without proper appreciation of their evidence and the evidence given by the doctor, whom they examined as P.W.3, awarded meager compensation of Rs.36,000/- and Rs.25,000/- respectively. Their further contention was that though bunch of medical bills produced by them to prove that huge expenditure was incurred towards medicines, hospital charges, the Court below did not take them into consideration and also the evidence given by them, and the evidence of P.W.3- doctor who treated them. The Tribunal awarded meagre sum under the head of medical expenses without looking into the documents produced by them. The pain and trauma which they were put to suffer due to fracture injuries was not properly appreciated and a minimal amount was awarded towards pain and suffering. These were the submissions raised by the counsel for the appellants while putting forth his arguments.

7. I have perused the award impugned in the present appeals. I have also perused the pleadings of the parties and the evidence on record.

8. These appeals were filed by the claimants in O.P.Nos.1398 and 1399 of 2007 on the file of the Motor Accident Claims Tribunal-cum-I Addl. District Judge at Nalgonda, questioning the quantum of compensation awarded to them. It was their contention that despite establishment of receiving of grievous injuries by them in the accident, dated 18.01.2007, and incurring of heavy amount towards medical expenditure, the Court below had not granted fair and reasonable compensation.

9. It is evident from Ex.A2-medical certificate issued by Satya Parameshwari Ortho Hospital, Miryalaguda, that the claimant in O.P.No.1398 of 2007 has taken treatment for the segmental fracture (rt) tibia middle third, and for the fracture to fibula; fracture to tibial condyle (left) knee; and for an abrasion over right side nose, laceration over forehead left side, fracture to superior ramie of left pelvis and compressed fracture D-O Vertebra.

10. Ex.A2 establishes that the appellant-claimant has received four grievous injuries and two simple injuries.

11. The Court below has awarded a sum of Rs.20,000/- for four grievous injuries at the rate of Rs.5,000/- for each grievous injury. The pain and trauma, which the claimant is put to suffer due to receiving grievous

injuries is unimaginable, and cannot be compensated in monetary terms. However, I feel that awarding of a reasonable sum in respect of each grievous injury is required. In my view Rs.10,000/- can be awarded in respect of each grievous injury. The Court below appears to have awarded Rs.4,000/- in respect of two simple injuries received by the claimant. The same also in my view can be enhanced to Rs.6,000/- from Rs.4,000/-. Though it is evident from the evidence given by P.W.3 that the claimant underwent surgery for fracture of left leg, POP was applied to his left leg and that he took treatment in the hospital from 18.01.2007 to 19.03.2007, the Court below awarded a meager sum of Rs.10,000/- under the head of medical expenditure. The medical bills filed by the claimant for a sum of Rs.76,605/- were not taken into consideration as the genuineness or correctness of them is doubted due to non-examination of the person connected to them. The Court below ought to have awarded reasonable sum towards medical expenditure looking into the evidence of P.W.3 which is clear and categorical so far as the treatment taken by the claimant in his hospital from 18.01.2007 to 19.03.2007. As the amount of Rs.10,000/- awarded under the head of medical expenditure appears to be very low, the same is hereby enhanced to Rs.30,000/- from Rs.10,000/-.

12. As it is found from the order impugned that no amount is awarded under the head of extra nourishment and attendant charges, this Court hereby awards a sum of Rs.5,000/- under the head of extra nourishment, Rs.2,000/- under the head of transportation charges and Rs.3,000/- under the head of attendant charges. Thus, the claimant in O.P.No.1398 of 2007 is entitled to get total compensation of Rs.86,000/-.

13. The claimant in O.P.No.1399 of 2007 also has come up with similar plea that he has not been compensated adequately by the Court below and an amount of Rs.25,000/- awarded to him in respect of fracture injuries received by him to right humerus, fracture to 4th, 5th and 6th ribs on rights side, for which, he has taken treatment in the hospital of P.W.3 by incurring huge expenditure, is not fair and reasonable.

14. It is manifestly clear from the evidence of P.W.2, the claimant in O.P.No.1399 of 2007 and Ex.A8-wound certificate issued by Satya Parameshwari Ortho Hospital, Miryalaguda, that in the accident dated 18.01.2007, he received fracture to greater tuberoity right humerus, lacerated wound over right knee, lacerated wound over left knee, abrasion over the right side cheek, fracture to 4th, 5th and 6th ribs right side and lacerated wound over the left

great toe. It is also evident from material on record that the claimant in the abovementioned O.P. was shifted to the hospital of P.W.3, and that P.W.3 issued Ex.A8-wound certificate on examining him thoroughly. It is opined by P.W.3 that the injuries 2 to 4 and 6 are simple in nature. It is manifestly clear from the material on record that the claimant in the above mentioned O.P. received two fracture injuries and four simple injuries. It appears from the order impugned that a sum of Rs.10,000/- is awarded by the trial Court in respect of two grievous injuries received by him.

15. The Court below has failed to appreciate the fact that the claimant is put to untold agony and that agony and sufferance which he faced due to the injuries cannot be compensated in terms of money. The Court below ought to have awarded a reasonable sum towards compensation under the head of pain and suffering taking into consideration the nature of injuries received by him in the accident on 18.01.2007. As it is opined that just compensation has not been awarded to the claimant in respect of grievous injuries received by him. the compensation in respect of two grievous injuries is enhanced to Rs.20,000/- from Rs.10,000/-.

16. Though it is evident from the material on record that the claimant was given conservative treatment

for the fracture injuries he received and could not able to attend normal works without anybody's assistance due to fracture injury to right humerus and fracture to 4th, 5th and 6th ribs on right side. The Court below has not awarded any amount under the head of attendant charges. It is also noticed from the order impugned that meager amount of Rs.5,000/- was awarded under the head of medical expenditure despite the proof regarding treatment taken by the claimant in the hospital of P.W.3 which he visited as directed/suggested. As it is opined that the amount awarded under the head of medical expenditure is meager and low, the same is enhanced to Rs.17,000/-. Since no compensation is awarded to the claimant under the head of attendant charges and extra nourishment and transportation charges, a sum of Rs.5,000/- is awarded under the head of attendant charges, Rs.5,000/- under the head of extra nourishment and Rs.3,000/- under the head of transportation charges. The claimant in O.P.1399 of 2007 is thus entitled to get total compensation of Rs.50,000/- as against Rs.25,000/- which has been awarded by the Court below.

17. In the light of my above held discussion both the appeals which arise of the common award dated 05.07.2010 passed in O.P.Nos.1398 and 1399 of 2010

deserve to be allowed in part enhancing the compensation amount from Rs.36,000/- to Rs.86,000/-; and from Rs.25,000/- to Rs.50,000/- respectively and they are hereby allowed accordingly. But, there shall be no order as to costs.

18. The enhanced compensation is payable to the appellants by R1 and R2 jointly and severally together with interest at 7.5% p.a. from the date of filing of the petition till realization.

19. Miscellaneous petitions, if any, pending in these appeals shall stand closed.

DATED: 11-07-2018.
Hsd

J.UMA DEVI, J

