THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. Nos.2666 OF 2006 & 4005 OF 2008

COMMON JUDGMENT:

Since both the appeals arise out of an order, dated 07.02.2006, in O.P.No.2618 of 2001, on the file of the Court of IV Additional Metropolitan Sessions Judge, Hyderabad-cum-XVIII Additional Chief Judge, Hyderabad (for short, the Tribunal), they are being disposed of by this common judgment.

M.A.C.M.A.No.2666 OF 2006:

2. This appeal is filed by the appellant/insurance company, on the ground that the compensation awarded by the Tribunal is excessive.

M.A.C.M.A.No.14005 OF 2008:

3. This appeal is filed by the appellant/claimant on the ground that the Tribunal awarded meager compensation of Rs.4,00,000/- against the claim of Rs.8,00,000/- for the injuries sustained by her in a road accident.

4. For the purpose of convenience, the parties are hereinafter referred to as they are arrayed in M.A.C.M.A.No.4005 of 2008.

5. The brief facts of the case are that on 15.09.2000 at about 12.30 pm., while the appellant was going on her cycle from D.S.P's Office, R.C.Puram, a lorry bearing No.AP12T 500 came in a rash and negligent manner at high speed in opposite direction and dashed against her. In the said accident, the appellant fell down

on the road and sustained crush injury to her right forearm. The appellant filed the aforesaid OP against respondent Nos.1 and 2, owner and insurer of the aforesaid crime vehicle, respectively, claiming compensation of Rs.8,00,000/- for the injuries sustained by her in the said accident.

6. The respondents filed separate written statements denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

7. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the lorry and awarded total compensation of Rs.4,00,000/- i.e., Rs.50,000/- towards shock, pain and loss of amenities of life, Rs.30,000/- towards crush injury, Rs.20,000/- towards injury on the muscles and loss of skin, Rs.1,00,000/- towards medical and incidental expenses and Rs.2,00,000/- towards permanent disability.

8. Heard.

9. As per the record, the appellant sustained a crush injury on her right forearm in the accident. P.W.4, the doctor who treated the appellant, deposed that on 15.09.2000, he examined the appellant and found a crush injury on the right forearm and a fracture of lower third of ulna; that he performed surgery on 22.09.2000 on the right forearm of the appellant along with Doctor

G.V.Sudhakar, a Plastic Surgeon, and that the lower third of Ulna was lost and the right hand of the appellant was functionally useless. He issued Ex.A.10-disability certificate, showing the disability of the appellant at 60%. Though the Tribunal accepted Ex.A.10, erroneously it has granted a lumpsum amount of Rs.2,00,000/- towards permanent disability, without taking into consideration the notional income of the appellant.

10. As the appellant was pursing Intermediate at the time of accident, this Court is inclined to fix her income at Rs.3,000/- per month notionally, by considering her disability at 60%. As per the judgment of the Hon'ble Supreme Court in **Jagdish V. Mohan**[1], the appellant is entitled to 40% of future prospects. As the appellant was aged about 15 years at the time of accident, the appropriate multiplier is '15'. Hence, the compensation under the head 'permanent disability' comes to Rs.4,53,600/- {Rs.4,200/- (Rs.3,000/- + 40%) X 12 X 15 X 60%}. The compensation granted by the Tribunal under other heads i.e., Rs.50,000/- towards shock, pain and loss of amenities of life, Rs.30,000/- towards crush injury, Rs.20,000/- towards injury on the muscles and loss of skin and Rs.1,00,000/- towards medical and incidental expenses, need no interference and they shall remain unchanged. Therefore, the total compensation comes to Rs.6,53,600/- (Rs.4,53,600/- + Rs.50,000/- + Rs.30,000/- + Rs.20,000/- + Rs.1,00,000/-).

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[1] (2018) 4 SCC 571

11. In the result, M.A.C.M.A.No.2666 of 2006 is dismissed and M.A.C.M.A.No.4005 of 2008 is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.4,00,000/- to Rs.6,53,600/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 17.10.2019
TJMR

HIGH COURT FOR THE STATE OF TELANGANA ★ HYDERABAD ★