

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.NO. 305 OF 2013

JUDGMENT:

This appeal is directed against the award, dated 22.11.2012, passed by the Motor Accidents Claims Tribunal-cum-VII Additional District and Sessions Judge (Fast Track Court), Nizamabad at Bodhan (for short 'the Tribunal), in O.P.No.26 of 2006 whereby the Tribunal awarded compensation of Rs.43,000/-, against the claim of Rs.2,00,000/-, on account of the injuries sustained by the petitioner in a motor vehicle accident that occurred on 09.09.2005.

2. For the sake of convenience, the parties herein are referred to as arrayed in the Tribunal.

3. The brief facts of the case are hereunder:

On 09.09.2005 at about 5.00 p.m., the petitioner along with others were travelling in an Auto bearing No.AP-25-U-7413 from Jankampet village to Bodhan, when she reached at Shakkarnagar X-road, Bodhan Village, suddenly the said auto was driven in a rash and negligent manner and at high speed and dashed against a stationed auto, as a result of which the petitioner and other inmates of the auto fell down from the auto and the petitioner sustained fractures of left neck humor, contusion to chest, head injury and other multiple and grievous injuries on various parts of the body. Immediately, the petitioner was shifted to Sri Maithri Hospital, Nizamabad, where she

was treated for fracture injuries and the petitioner sustained permanent disability.

4. Before the Tribunal, respondent No.1 engaged an advocate, but he failed to file counter, consequently he was set ex parte. Respondent No.2 filed its counter denying the averments of the claim petition and contended that as per the F.I.R. two vehicles are involved in the accident and there is every possibility of contributory negligence on the part of the driver of the other auto, as such, the driver and insurance company of other auto are also necessary parties and due to the non-joinder of parties, the claim petition is liable to be dismissed. Further, the amount claimed is excessive and prayed to dismiss the claim petition.

5. 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 auto and awarded total compensation of Rs.43,000/- with interest @ 7.5% per annum, i.e., Rs.15,000/- towards one grievous injury, Rs.3,000/- towards one simple injury, Rs.10,000/- towards medical expenses and Rs.15,000/- towards pain and suffering.

6. Dissatisfied with the quantum of compensation, the petitioner filed the present appeal, seeking enhancement of the same.

7. Heard.

8. A perusal of the record shows, the Tribunal has not considered regarding loss of earnings, extra nourishment and transportation. As such, this Court feels that it is just and necessary to award a sum of Rs.5,000/- towards loss of earnings, extra nourishment and transportation. Except the said enhancement, the Judgment of the Tribunal remains unchanged.

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.43,000/- to Rs.48,000/-. 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. No costs.

T.AMARNATH GOUD, J

21st August 2019

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