

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.794 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Judgment and Decree dated 16.11.2005 passed in O.P.No.393 of 2003 by the Motor Accidents Claims Tribunal (XII Additional Chief Judge), City Civil Court (Fast Track Court), Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that on 19.11.2000 at about 3.45P.M. the appellant along with his friend were proceeding on Hero Honda Motor Cycle from Chilkur towards Langer House, Hyderabad and on reaching near Military Water Tank, the Auto bearing No.AP 9 V.3120 came from opposite direction at a high speed in a rash and negligent manner and turned turtle and hit the Hero Honda Motor Cycle of the appellant. As a result, the appellant and his friend sustained severe injuries. The appellant claims that the driver and owner of the auto, the respondent Nos.1 and 2 herein, that caused the accident. Immediately they got themselves admitted in NIMS Hospital, where he was treated as in patient from 19.11.2000 to 03.12.2000 and later as out-patient for six months. Thus he spent the amount of 2lakhs towards treatment and extra nourishment. The appellant further claims that the accident was caused entirely due to rash and negligent act of the driver of the aforesaid auto. He filed aforesaid OP against respondent Nos.1 and 2, owner and insurer of the Auto, claiming compensation of Rs.2,00,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the driver of the Auto and awarded total compensation of Rs.60,000/- (Rs.18,000/- towards Loss of income during treatment period; Rs.12,000/- towards extra nourishment; Rs.5,000/- towards pain and sufferings; Rs.15,000/-towards medical expenses; Rs.5,000/-towards transportation charges and Rs.5,000/- towards fracture) with interest @ 9% per annum. Dissatisfied with the quantum of compensation, the injured filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Admittedly, accident took place and the claimant was admitted in the NIMS hospital, Hyderabad for treatment. On perusal of the record, the evidence of the Doctor who was examined as P.W.3 by the tribunal and the medical documents Exs.A.4 to A.6(A.4-injury certificate, Ex.A.5-discharge record of NIMS, A.6 Bunch of medical bills and receipts; A.9 to A.17 (Ex.A.9-discharge card, Ex.A.10 to 12-medical reports, Ex.A.13 and A.14- medical receipts, Ex.A.15-bunch of medical bills, Ex.A.16-bunch of X-rays, Ex.A.17-Medical bill) clearly show that

the petitioner sustained fracture to his left hand and screws were fixed into the hand and he was treated as in-patient right from 19.11.2000 to 03.12.2000 for about 15days.

7. In view of the above, this Court feels that the compensation awarded by the Tribunal of Rs.60,000/- is very meager and the same is to be enhanced. The amount awarded by the tribunal under the head of medical expenses of Rs.15,000/- is enhanced to Rs.38,000/- and towards pain and sufferance of Rs.5,000/- to Rs.10,000/-. In addition to the above enhancement, this Court feels it just to award Rs.2,000/- towards attendant charges. Except the said enhancement, the Judgment of the Tribunal remains unchanged.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.60,000/- to Rs.90,000/-. 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

Date: 18.09.2019
Vvr