

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2240 of 2012

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 04-02-2011 passed in O.P.No.2730 of 2008 by the Motor Vehicle Accidents Claims Tribunal-cum-VI Additional Chief Judge-cum-II Additional Metropolitan Sessions Judge, City Criminal Courts, Hyderabad (for short, the Tribunal).

2. Brief facts of the case are that on 20-08-2008 at about 6.30 am the claimant was riding on his motorcycle bearing No.AP 28BF 9504 from his residence Lalsabguda to Dr. Reddy Labs for attending his duties and when he reached near Sri Chaitanya College, a lorry bearing No.AP 23 W 2259 came in a rash and negligent manner and dashed against him, due to which, he fell down and sustained fracture to both collar bones and head injury and he incurred huge expenditure for treatment and nursing etc. He filed the claim petition claiming compensation of Rs.4.00 lakhs for the injuries sustained by him against the respondent Nos.1 and 2 who are the owner and insurer of the crime vehicle.

3. In the claim petition, the 2nd respondent-insurer 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 the

rash and negligent driving on the part of the driver of the crime vehicle only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.2,25,400/- i.e. Rs.25,000/- towards pain and suffering; Rs.5,000/- towards nervous shock; Rs.70,000/- towards medical expenditure; Rs.3,000/- towards actual loss of income and Rs.1,22,400/- towards permanent disability. Accordingly, it partly allowed the claim petition granting compensation of Rs.2,25,400/- with interest at 7.5% per annum through out.

5. Dissatisfied with the quantum of compensation, the appellant/claimants filed the present appeal, seeking for enhancement of the compensation.

6. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the 2nd respondent-insurer.

7. Learned counsel for the appellant-claimant contends that the Tribunal erred in awarding meager compensation of Rs.1,22,400/- by taking percentage of disability at 20% and monthly income at Rs.600/- per month. He further contends that Tribunal also did not consider in a right manner while awarding compensations under the heads of medical expenditure, loss of income and also ignored in awarding compensation under the additional heads like fractures, transportation, extra-nourishment etc. Therefore, the claimant is entitled for fair compensation.

8. Sri Somanchi Venkateswarlu, learned Standing Counsel for the 2nd respondent, contends that the Tribunal awarded compensation in a just and proper manner and he supported the order passed by the Tribunal.

9. As seen from the order of the Tribunal, the Tribunal has taken monthly income of the claimant as Rs.3,000/- per month. Further, it is not known how it came to the conclusion for taking disability from 30% to 20% and finally fixed the monthly income at Rs.600/- only. Admittedly, there is no dispute with regard to the claimant working as house keeper at Reddy Labs and earning Rs.4,500/- per month as clearly deposed by the claimant as P.W.1. As per the decision of the Supreme Court in **Ramchandrapa Vs. Manager, Royal Sundaram Aliance Insurance Co. Ltd.**¹, wherein, the Supreme court held that in case of labourer, minimum wages can be taken as Rs.150/- per day at least. Hence, fixing an amount of Rs.4,500/- per month as notional income of the claimant is reasonable.

10. In spite of that, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**² and **Jagadish Vs. Mohan and others**³, he is entitled to be granted future prospects at 40%. Then his monthly income comes to Rs.6,300/- (4500 + 1800); Considering the severity of the multiple fracture on right clavicle, the disability can be taken at 30% as per the decision of this Court in **Syed Saleem Vs. Abdul Shukur and another**⁴. So after deducting the remaining amount, his income comes to Rs.1890/- per month (i.e. 30% of Rs.6,300/-) and it comes

¹ 2011 (6) ALD 75 (SC)

² 2017 (6) 170 (SC)

³ 2018 ACJ 1011

⁴ 2007 (1) ALD 382

to Rs.22,680/- per annum. Tribunal has rightly taken multiplier '17' according to the age of the claimant, which is right. Hence, the loss of income in respect of the disability comes to Rs.3,85,560/- (Rs.22680/- x 17).

11. So far as the compensation under the head of medical expenditure, the Tribunal has granted Rs.70,000/- out of Rs.77,094/-. As there is sufficient evidence by way of Ex.A-9, bunch of medical bills, showing a sum of Rs.77,094/- the same can be granted.

12. So far as compensation granted under the head of actual loss of income for the bed rest for a period of one month i.e. Rs.3,000/- is concerned, since already I have decided the monthly income of the claimant at Rs.4,500/- as above, and in view of the injuries, at least, the claimant could have suffered for a period of one month and thereafter bed rest and care for another one month, taking total period of two months towards loss of earnings would be justifiable. Hence, it comes to Rs.9,000/- (i.e. Rs.4500/- X 2).

13. Further, as contended by the claimant, the Tribunal ignored in granting compensation towards additional heads viz., fractures, transportation, extra-nourishment etc. Since there are two simple fractures on the right shoulder bone and on the left wrist bone, this Court feels awarding Rs.15,000/- for each fracture i.e. Rs.30,000/- for both the fractures is reasonable while granting an amount of Rs.2,000/- for transportation and an amount of Rs.5,000/- towards extra nourishment.

14. With the above observations, the total enhanced and newly awarded compensation under various heads is as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Pain and suffering	Rs.25,000/-	Rs.25,000/-
02.	Nervous shock	Rs.5,000/-	Rs.5,000/-
03.	Medical expenditure	Rs.70,000/-	Rs.77,094/-
04.	Actual loss of income	Rs.3,000/-	Rs.9,000/-
05.	Loss of income for permanent disability	Rs.1,22,400/-	Rs.3,85,560/-
06.	Transportation	Nil	Rs.2,000/-
07.	Extra Nourishment	Nil	Rs.5,000/-
08.	Fractures	Nil	Rs.30,000/-
Total		Rs.2,25,400/-	Rs.5,38,654/-

15. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.2,25,400/- to Rs.5,38,654/- (Rupees Five Lakh Thirty Eight Thousand Six Hundred and Fifty Four only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The appellant/claimant is directed to pay Court Fee for the enhanced amount of compensation. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw the entire amount. No costs.

16. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 02.08.2019
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