

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.631 OF 2008

JUDGMENT:

This appeal is filed by the appellant – claimant aggrieved by the Award dated 11.07.2007 passed by the X Additional Chief Judge (FTC), City Civil Court, Hyderabad, (for short the Court below) in O.P.No.1815 of 2005, whereby the Court below awarded compensation of Rs.52,835/- on account of the injuries sustained by the appellant in a motor vehicle accident occurred on 01.01.2005.

2. For the sake of convenience, the parties herein are referred to as arrayed before the Court below.

3. Being dissatisfied with the quantum of compensation passed by the Court below, the petitioner filed this appeal seeking enhancement of the same on the ground that the Court below failed to consider the nature of injuries sustained by him as deposed by PW.2 - Doctor towards permanent disability, which is contrary to the settled principles of law.

4. Learned counsel for the petitioner argued on the issue of claim of disability of the petitioner at 10%.

5. There is no dispute with regard to the manner of accident and the injuries sustained by the petitioner and the pain and suffering underwent by him during the period of treatment. Therefore, both these aspects have to be taken into consideration, while awarding compensation. But, the petitioner has neither produced evidence from the Medical Board with regard to treatment underwent by him nor any member of Medical Board was examined on this aspect.

Moreover, the Doctor, who made surgery, was not the competent person. Therefore, the contention of learned counsel for the petitioner on the aspect of claiming disability at 10% is rejected.

6. The Court below granted Rs.15,000/- towards the fracture, Rs.5,000/- towards pain and suffering, Rs.24,433/- towards medical bills, Rs.6,402/- towards loss of income, Rs.1,000/- towards extra nourishment and Rs.1,000/- towards transport charges. However, this Court feels it appropriate to grant additional amount of Rs.10,000/- towards fracture injury since the injury is a surgical injury, additional amount of Rs.5,000/- towards pain and suffering, Rs.10,000/- towards removing implants and second surgery, medical bills and loss of income are remained as it is and additional amount of Rs.4,000/- towards extra nourishment and additional amount of Rs.2,000/- towards transport charges. Thus, the petitioner is entitled to a total compensation as under:

Fracture	Rs.25,000/- (Rs.15,000 + Rs.10,000)
Pain and suffering	Rs.10,000/- (Rs.5,000 + Rs.5,000)
Medical Bills	Rs.24,433/-
Removal of surgery	Rs.10,000/- (additional)
Loss of income	Rs.6,402/-
Extra Nourishment	Rs.5,000/- (Rs.1,000 + Rs.4,000)
Transport charges	Rs.3,000/- (Rs.1,000 + Rs.1,000)
Total	Rs.83,835/-

7. In view of the above, the respondents are directed to pay the enhanced compensation from the date of the judgment. The petitioner

is entitled to withdraw the same soon after depositing the amount by the respondents.

8. In the result, the appeal is allowed in part enhancing the compensation from Rs.52,835/- to Rs.83,835/-. The enhanced compensation amount shall carry interest @ 7.5% per annum from the date of petition till the date of realization. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

Date:24.06.2019

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T. AMARNATH GOUD, J

