

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2129 of 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 05-07-2006 passed in O.P.No.294 of 2002 by the Motor Vehicle Accidents Claims Tribunal-cum-I Additional District Judge, at Mahabubnagar (for short, the Tribunal).

2. Brief facts of the case are that on 09-04-2000, in the evening hours, when the claimant bringing water from Railway track crossing road near rice mill at Badepally, one lorry came in a rash and negligent manner and dashed him in high speed, due to which, he got injuries to the liver, right elbow and other parts of the body. Hence, he filed the claim petition claiming Rs.10.00 lakhs against the respondents 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.5.00 lakhs i.e. Rs.7,500/-

towards pecuniary damages; Rs.28,000/- towards transportation; Rs.30,000/- towards loss of career; Rs.2,02,500/- towards loss of dependency; Rs.1,25,000/- towards loss of future prospects; Rs.30,000/- towards pain and suffering; Rs.30,000/- towards future transportation; Rs.15,000/- towards attendance charges and Rs.30,000/- towards medical expenses and extra-nourishment. Accordingly, it partly allowed the claim petition granting compensation of Rs.4.98 lakhs (rounded off to Rs.5.00 lakhs) with interest at 7% per annum through out on Rs.4,25,000/-.

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

6. Heard.

7. Learned Standing Counsel for the 2nd respondent-insurer does not dispute about the quantum of compensation and consented to the enhancement of compensation for which amount the claimant is entitled to.

8. As seen from the order of the Tribunal, the Tribunal has taken annual income of the claimant at the rate of Rs.27,000/- per month as notional income since the claimant is a non-earning member. In view of the decision of the Supreme Court in **Kishan**

Gopal and another v. Lala and others¹, the income of the non-earning member can be fixed at the rate of Rs.30,000/- per annum.

9. In spite of that, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**², the claimant is entitled to be granted future prospects at 40%. Then his annual income comes to Rs.42,000/-; that considering the severity of the multiple injuries to his digestive system and surgery to the urinary tube etc. and thereafter he became impotent and unfit for marriage, as rightly held by the Tribunal, the disability can be taken at 50% as per the decision of this Court in **Syed Saleem Vs. Abdul Shukur and another**³. So after deducting 50%, his income comes to Rs.21,000/- per annum. Further, the Tribunal has rightly taken multiplier '15' according to the age of the claimant. Hence, the loss of income in respect of the disability comes to Rs.3,15,000/- (Rs.21000/- x 15).

10. Except the above modification, the compensation awarded by the Tribunal under all other heads shall remain unchanged since the Tribunal after appreciating the oral and documentary evidence on record rightly granted compensation and therefore the order of the Tribunal does not warrant any interference by this Court in respect of all other heads. Therefore, the claimants are granted total compensation of Rs.6,12,500/-.

¹ 2013 (6) ALD 59 (SC) = (2014) 1 S.C.C. 244

² 2017 (6) 170 (SC)

³ 2007 (1) ALD 382

11. In the result, the appeal is partly allowed by enhancing the compensation awarded by the Tribunal from Rs.5.00 lakhs to Rs.6,12,500/- (Rupees Six Lakhs Twelve Thousand and Five Hundred only). The enhanced amount of compensation shall carry interest at 7.5% per annum. 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.

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

JUSTICE T.AMARNATH GOUD

Date: 01.11.2019
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