

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. Nos.1019 & 1120 of 2005

COMMON JUDGMENT:

Since both the appeals arise out of the common order, they are being disposed of by this common judgment.

2. Both the appeals are filed against the common order and decree dated 24-02-2005 passed in O.P.No.1223 of 2001 by the M.A.C.T.-cum-III Additional District Judge (FTC), Nizamabad (for short 'the Tribunal').

3. Brief facts of the case are that on 29-03-2001 when the claimant along with others was going to Nizamabad in a jeep bearing No.MTJ-7044 and when the jeep reached near Chikli limits, its driver drove it in a rash and negligent manner at high speed and dashed to a bridge, which resulted an accident and caused grievous injuries to all over the body of the claimant viz., fractures of both the bones of right leg and right clavicle bone etc. Hence, he filed claim petition against the insurer and owner of the vehicle claiming compensation of Rs.1,50,000/-.

4. In the claim petition, both the insurer and owner of the vehicle filed their counters denying the averments of the claim petition and contended that 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 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.35,000/- i.e. Rs.15,000/- towards fracture of both the bones of left leg; Rs.7,000/- towards fracture of right clavicle; Rs.3,000/- towards costs of medicines; Rs.5,000/- towards pain and suffering; Rs.2,000/- towards extra nourishment; Rs.2,000/- towards transportation and Rs.1,000/- towards loss of earnings. Accordingly, it partly allowed the claim petition granting compensation of Rs.35,000/- with interest at 9% per annum through out against the both insurer and owner of the crime vehicle to pay the compensation jointly and severally.

6. Aggrieved by the order of the Tribunal, the claimant filed MACMA No.1019 of 2005 and insurer filed MACMA No.1120 of 2005.

7. Heard the learned counsel for both the parties.

8. Learned counsel for the claimant contends that the Tribunal erred in awarding meager compensation since the claimant has sustained multiple fractures and suffered from grievous injuries. Hence, he prayed for fair compensation.

9. Learned counsel for the insurer contends that the Tribunal ought not to have granted such compensation and he

supported the order of the Tribunal. Hence, prayed to dismiss the appeal.

10. As seen from the order of the Tribunal, it is clear that the claimant sustained two grievous fractures of right clavicle, and for which, the Tribunal considering under Ex.A-3, wound certificate and left leg fracture, granted Rs.15,000/-, but for right clavicle, awarded only Rs.7,000/-. This Court feels that the amount of Rs.7,000/- is meager and the same is to be **enhanced** to Rs.15,000/-.

11. Further, for the injuries sustained by the claimant, he obviously needs to take bed rest at least for a period of two months and thus, a sum of Rs.4,000/- per month for a period of two months which comes to Rs.8,000/- towards loss of income can be awarded. Hence, an amount of Rs.35,000/- awarded by the Tribunal is enhanced to Rs.50,000/- i.e. (Rs.15,000/- + Rs.15,000/- + Rs.3,000/- + Rs.5,000/- + Rs.2,000/- + Rs.2,000/- + Rs.8,000/-).

12. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.50,000/-.

13. In the result, M.A.C.M.A.No.1019 of 2005 filed by the claimant is partly allowed and M.A.C.M.A.No.1120 of 2005 filed by the insurer is dismissed by enhancing the compensation awarded by the Tribunal from Rs.35,000/- to Rs.50,000/- (Rupees Fifty Thousand

only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The respondents are directed to deposit the enhanced amount jointly and severally along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the entire amount. No costs.

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

JUSTICE T.AMARNATH GOUD

Date: 30.09.2019
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