

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.952 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 25.11.2010 passed in O.P.No.817 of 2005 by the Motor Vehicles Accidents Claims Tribunal-cum-V Additional District Judge (FTC), Ranga Reddy District (for short, the Tribunal).

2. The brief facts of the case are that on 31.07.2004 at about 2.30 pm., while the appellant was traveling on a Hero Honda motorcycle bearing No.AP20B 5732 as a pillion rider, and when he reached Bairamalguda Cross Road, a lorry bearing No.AP16T 6577 gave dash against the motorcycle, as a result of which, the appellant sustained multiple fractures and other grievous injuries. He filed aforesaid OP, claiming compensation of Rs.5,00,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent Nos.1 and 3 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 the rash and negligent driving of the driver of the lorry and awarded compensation of Rs.25,000/- with interest @ 6% per annum. Dissatisfied with the quantum of compensation, the

appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. A perusal of the record, it reveals that the appellant did not produce any evidence to show that he was earning Rs.10,000/- per month and also did not examine the doctor who treated him to prove that he received fractures and other grievous injuries. He also failed to produce any medical proof that he sustained permanent disability. However, in the light of Ex.A.4, summary bills issued by Sai Ram Multispeciality Hospital, Dilsukh Nagar, Hyderabad, it is evident that the appellant was hospitalized from 04.08.2004 to 19.08.2004 and underwent surgery for two fractures i.e., left femur and right ankle, for which, the appellant incurred medical expenses of Rs.70,219/-. The Tribunal did not believe Ex.A.4 on the technical grounds. As the Motor Vehicles Act is a beneficial legislation, the victim cannot be deprived of his legitimate right on the technical grounds. Since the treatment is immediately after the accident i.e., 31.07.2004, this Court is of the considered view that the appellant took the treatment in the said hospital for the injuries caused in the aforesaid accident.

7. In the facts and circumstances of the case, I am inclined to grant Rs.50,000/- towards two fractures, Rs.70,219/- towards medical bills, Rs.5,000/- towards extra nourishment, Rs.2,000/- towards transportation and Rs.10,000/- towards pain and

suffering. In view of the fractures and injuries, the appellant might have lost earnings for a period of two months. Therefore, a sum of Rs.9,000/- is granted towards loss of earnings, by taking the notional income of the appellant at Rs.4,500/- per month.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.25,000/- to Rs.1,46,219/-. 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.

Date: 01.08.2019
TJMR

T.AMARNATH GOUD, J

