

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.290 OF 2010

JUDGMENT:

This appeal is filed by the appellant - claimant aggrieved by the order and decree dated 12.01.2010 passed in M.V.O.P.No.1131 of 2007 by the Motor Accident Claims Tribunal-cum-VI Additional District Judge (III-F.T.C.), Warangal at Mahabubabad (for short, the Tribunal) whereby the Tribunal awarded compensation of Rs.44,000/- on account of the injuries sustained by him as against the claim of Rs.2,50,000/-.

2. For the sake of convenience, the parties herein are referred to as they were arrayed before the Tribunal.

3. The brief facts of the case are that on 25.09.2000, while the petitioner was proceeding on his bicycle in the afternoon and when he reached near Nekkonda cross roads at Narsampet, the driver of auto bearing No.AP-36W-1489 came in a rash and negligent manner with high speed from Khanapur side and hit the cycle of the petitioner from back side, as a result, the petitioner fell down and sustained fracture to his hip, 10th rib of right side and injuries over his right knee and scrotal etc. The petitioner was immediately shifted to Laxmi Hospital, Narsampet, where he was treated conventionally and thereafter he was shifted to a private hospital, where he incurred an amount of Rs.40,000/- towards medical expenditure. Due to the injuries sustained by him, he is unable to sit, squat, walk and lift the weights. The petitioner filed the aforesaid M.V.O.P. claiming compensation of Rs.2,50,000/- against respondent No.1 – owner of the auto and respondent No.2 and 3 -

insurers, who are jointly and severally liable to pay compensation to the petitioner.

4. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent Nos.2 and 3 filed their counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. The Tribunal, after considering the oral and documentary evidence on record, fixed the notional income of the petitioner at Rs.3,000/- per month and as the petitioner was under bed rest for two months, an amount of Rs.6,000/- was awarded for loss of earnings. Since the medical bills to the extent of Rs.11,000/- were furnished, an amount of Rs.11,000/- was awarded, as against the claim of Rs.40,000/-. A sum of Rs.25,000/- towards pain and suffering and Rs.2,000/- towards transportation charges were awarded. Thus, the total compensation awarded by the Tribunal was Rs.44,000/-.

6. Admittedly, as per the evidence of PW.2 – Doctor (referred in paragraph No.16 of the order), there were five injuries, out of which serial Nos.3 and 4 were fracture injuries, which are grievous in nature, and other three injuries are simple in nature. In view of the same, this Court feels it appropriate that it would be just and proper to award an amount of Rs.25,000/- for each fracture injury and a sum of Rs.10,000/- towards extra nourishment and attendant charges. Hence, the total compensation comes to Rs.1,04,000/- (Rs.3,000/- + Rs.3,000/- + 11,000/- + Rs.25,000/-

Rs.2,000/- + Rs.25,000/- + Rs.25,000/- + Rs.10,000/-). The enhanced amount shall carry interest at 7.5% per annum.

7. In the result, the appeal is allowed in part enhancing the compensation amount from Rs.44,000/- to Rs.1,04,000/- with interest at 7.5% per annum on the enhanced amount. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand dismissed.

Date:03.07.2019

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T. AMARNATH GOUD, J

