

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.211 OF 2010

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 05.01.2007 passed in O.P.No.52 of 2003 by the Motor Accidents Claims Tribunal-cum-III Additional District Judge (FTC), Asifabad (for short, the Tribunal).

2. The brief facts of the case are that on 30.06.2002 at about 20.00 pm, the appellant along with one Maapaka Murali was going on scooter to the petrol pump from Utkoor Village and when they reached near Swapna Hotel, Cross Roads, to the Petrol pump, an auto rickshaw bearing No.AP 1U 2185 came on wrong side and dashed against the scooter and as a result, he fell down and suffered serious injuries. The 1st respondent is the owner and the 2nd respondent is the insurer of the scooter. Hence, the appellant filed the present claim petition claiming a compensation of Rs.3,64,000/-.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 filed 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 auto rickshaw bearing No.AP 1U 2185 and awarded total compensation of Rs.39,000/- i.e., Rs.10,000/- towards loss of earnings,

Rs.15,000/- towards Medical expenses, Rs.1,500/- towards Extra Nourishment, Rs.1,500/- towards Attendant charges, Rs.10,000/- towards Pain and Suffering and Rs.1,000/- towards transport charges.

5. Heard.

6. In the facts and circumstances of the case, since the appellant has suffered four fractures which are grievous in nature, this Court feels that it would be just and proper to award an amount of Rs.30,000/- towards pain and suffering. As regards the Medical expenses, the Tribunal has awarded an amount of Rs.15,000/-, but as per Exs.A-3 to A-5, the total medical expenditure incurred by the appellant comes to Rs.61,000/-. Since the appellant has suffered four fractured injuries, obviously treatment needs to be attended. Therefore, this Court feels just and proper to award an amount of Rs.25,000/- towards medical expenses. Except the said enhancement, rest of the award remains un-changed. Therefore, the total compensation under various heads comes as under:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Loss of Earnings	Rs.10,000/-	Rs.10,000/-
02.	Medical expenses	Rs.15,000/-	Rs.25,000/-
03.	Extra Nourishment	Rs.1,500/-	Rs.1,500/-
04.	Attendant Charges	Rs.1,500/-	Rs.1,500/-
05.	Pain & Suffering	Rs.10,000/-	Rs.30,000/-
06.	Transport charges	Rs.1,000/-	Rs.1,000/-
TOTAL		Rs.39,000/-	Rs.69,000/-

7. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.39,000/- to Rs.69,000/-. The appellant is entitled to interest @ 7.5% per annum on enhanced compensation from the date of petition till realization, as per the decision of the Apex Court in **Rajesh and others v. Rajbir Singh and others**¹. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

T.AMARNATH GOUD, J

Date: 24th July, 2019

KL



¹ 2013 ACJ 1403 = 2013 (4) ALT 35