

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.126 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 25.10.2010 passed in O.P.No.1049 of 2008 by the VII Additional Metropolitan Sessions Judge-cum-Motor Accidents Claims Tribunal, Hyderabad (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that the petitioner was aged about 29 years, working as a Carpenter and earning Rs.6,000/- per month by the date of accident. He belonged to Peechupally Village, Narsapur Mandal, West Godavari District and came to Hyderabad to attend to carpentary work and that he was a very experienced and skilled carpenter. On 27.02.2008, at about 9.00 p.m., while the petitioner along with his friend Venkata Bhaskar were proceeding on motorcycle bearing No.AP 37 AF 1193 from Guttala Begumpet towards Kukatpally on extreme left side of the road and when reached near Hitex Kaman, Madhapur, a Tata Sumo bearing No.AP 29 T 8263 driven by its driver with high speed, in rash and negligent manner proceeding from Hi-Tech city came on to its wrong side and dashed to the motorcycle of the petitioner. Due to the sudden impact, the petitioner and his

friend fell down from the motorcycle and both of them sustained grievous injuries. Immediately after the accident, they were shifted to Gandhi Hospital, Secunderabad and the petitioner was admitted as inpatient. He left the hospital on 03.03.2008 and admitted at Sri Lakshmi Satyanarayana Orthopedic Hospital, Royapet, Narsapur, West Godavari District and his left leg was amputated and he sustained permanent disability. Hence, the petitioner filed the claim petition claiming compensation of Rs.4,00,000/-, payable by both the respondents, being the owner and insurer of the offending Tata Sumo.

4 Before the Tribunal, the 1st respondent remained *ex parte*. The 2nd respondent filed counter 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 evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-7, Ex.B-1 & Ex.C-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending Tata Sumo and awarded total compensation of Rs.78,000/- i.e., Rs.25,000/- towards Medical bills, Rs.30,000/- towards Pain & Suffering, Rs.8,000/- towards loss of income and Rs.15,000/- towards extra nourishment, transportation and attendant charges, with interest @ 6% per

annum from the date of petition till the date of deposit, payable by both the respondents. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. Heard both sides. Perused the material record.

7. Admittedly, the petitioner has sustained two fractures in the above said accident i.e., pelvic and chest compression, abrasion of left leg 4 c.m. from knee and 3 x 1 x 0.5 c.m. deformity of left leg upper 1/3rd. But the Tribunal has not granted any amount towards the fractures sustained by the petitioner. Therefore, this Court feels that it would be just and proper if an amount of Rs.30,000/- (Rs.15,000/- each for two fractures) is awarded to the petitioner towards two fractures. Except the said enhancement, rest of the award remains un-changed. Therefore, the total compensation comes to Rs.1,08,000/- (Rs.78,000/- + Rs.30,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.78,000/- to Rs.1,08,000/-, payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two (02)

months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the entire amount. 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: 19th December, 2019

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