

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.742 of 2009

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 20-07-2006 passed in M.V.O.P.No.391 of 2001 by the Motor Vehicle Accidents Claims Tribunal-cum-XI Additional Chief Judge-cum-VII Additional Metropolitan Sessions Judge, Red Hills, Nampally (for short, the Tribunal).

2. Brief facts of the case are that on 06-05-1999 while the claimant was riding his motorcycle bearing No.AP-20d-2554 to go to Pragati Degree college at Koti to drop his sister and when he reached at Medwin Hospital, Malakpet, one RTC bus came in a rash and negligent manner from back side and dashed against his vehicle, due to which, he sustained multiple injuries to his left leg. He was rushed to the Yashoda Super Specialty Hospital at Malakpet and the doctors found that the claimant sustained commuted fracture M/3 left fibula, and he underwent for operation to that effect. Hence, he filed claim petition claiming compensation of Rs.5.00 lakhs for the injuries and fractures sustained by him against the respondents-RTC.

3. In the claim petition, the respondents-RTC 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.

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 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.1,26,000/- i.e. Rs.40,000/- towards fracture injuries; Rs.50,000/- towards four operations; Rs.20,000/- towards pain and suffering; Rs.10,000/- towards incidental expenses and Rs.6,000/- towards loss of earnings for a period of two months. Accordingly, it partly allowed the claim petition granting compensation of Rs.1,26,000/- with interest at 7.5% per annum through out.

5. Dissatisfied with the quantum of compensation, the appellant/claimant filed the present appeal, seeking for enhancement of the compensation.

6. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the respondents-RTC.

7. Learned counsel for the appellant-claimant contends that the Tribunal erred in awarding meager compensation of Rs.50,000/- towards four major operations and also ignored in granting compensation for the huge amount incurred by the claimant for medicines etc. Therefore, the claimant is entitled for fair compensation.

8. Sri N.Vasudeva Reddy, learned Standing Counsel for the respondents-RTC, contends that the Tribunal awarded compensation in a

just and proper manner and he supported the order passed by the Tribunal and prayed to dismiss the appeal.

9. The Tribunal granted an amount of Rs.50,000/- towards four operations underwent by the claimant. As seen from the evidence of P.W.2, it is clear that the claimant requires removal of implants from his left thigh which will cost Rs.25,000/- approximately. It is also evidenced by P.W.3, Orthopedic surgeon, that the claimant sustained commuted fracture of left femur and compound segmental fracture of his left tibia and was admitted as in-patient for 43 days. Considering the severity and nature of fracture and the number of operations, granting Rs.80,000/- towards all operations is just and reasonable compensation instead of Rs.50,000/-. Hence, the claimant is entitled for the said compensation.

10. Further, the Tribunal ignored in considering the medical bills on the ground that none were examined to prove the same. However, the claimant filed sufficient documentary evidence by way of Ex.A-14, bunch of medical bills, showing the amount spent for purchasing medicines as the claimant underwent four surgeries and therefore, he is entitled to be granted an amount of Rs.10,000/- at least towards medical bills.

11. Except the above modification, the compensation awarded by the Tribunal under all other heads shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.1,66,000/- under various heads as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Fracture injuries	Rs.40,000/-	Rs.40,000/-
02.	Four operations	Rs.50,000/-	Rs.80,000/-
03.	Pain and suffering	Rs.20,000/-	Rs.20,094/-
04.	Incidental expenses	Rs.10,000/-	Rs.10,000/-
05.	Loss of earnings for two months	Rs. 6,000/-	Rs.6,000/-
06.	Medical bills	Nil	Rs.10,000/-
Total		Rs.1,26,000/-	Rs.1,66,000/-

12. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.1,26,000/- to Rs.1,66,000/- (Rupees One Lakh Sixty Six Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw the entire amount. No costs.

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

JUSTICE T.AMARNATH GOUD

Date: 06.08.2019
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