

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.46 of 2015

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 20-10-2014 passed in O.P.No.362 of 2011 by the Motor Vehicle Accidents Claims Tribunal-cum-Additional District Judge, Nizamabad (for short, the Tribunal).

2. Brief facts of the case are that on 29-01-2011, when the claimant was riding his motorcycle, about at 7pm, when he reached Durki village outskirts, one Maruthi car bearing No.AP-10-AF-8984 came in opposite direction in a rash and negligent manner with high speed and dashed against the motorcycle, as a result of which, he sustained injuries and immediately he was shifted to Government Hospital, Banswada and thereafter, he underwent operation for fracture injury to the right leg and rods were inserted. Hence, he filed the claim petition claiming compensation of Rs.3.00 lakhs against the respondents who are the owner and insurer of the crime vehicle for the injuries sustained by him.

3. In the claim petition, the 2nd respondent-insurer 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 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.2,19,000/- i.e. Rs.60,000/- towards injuries; Rs.25,000/- towards loss of income during the period of treatment; Rs.50,000/- towards disability and Rs.84,000/- towards medical expenses. Accordingly, it partly allowed the claim petition granting compensation of Rs.2,19,000/- 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 2nd respondent-insurer.

7. Learned counsel for the appellant-claimant contends that the Tribunal granted very meager compensation under the head of injuries since the claimant under went implant surgeries and incurred huge amount and still he is suffering from 40% disability. Hence, the same may be enhanced. He further contends that the Tribunal also ignored in awarding compensation under the additional heads like attendant charges, transportation and extra-nourishment etc. Therefore, the claimant is entitled for fair compensation.

8. Sri Somanchi Venkateswarlu, learned Standing Counsel for the 2nd respondent, contends that the Tribunal awarded compensation in a just and proper manner and he supported the order passed by the Tribunal.

9. As seen from the order of the Tribunal, the Tribunal has rightly granted compensation under various heads and this Court needs no interference. However, as contended by the learned counsel for the claimant, the Tribunal ignored in granting compensation under the heads of extra nourishment, transportation and attendant charges. In view of the same, this Court feels that awarding an amount of Rs.5,000/- towards extra nourishment; Rs.3,000/- towards attendant charges; and Rs.2,000/- towards transportation; would be just and reasonable.

10. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.2,29,000/-.

11. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.2,19,000/- to 2,29,000/- (Rupees Two Lakhs Twenty Nine 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 appellant/claimant is permitted to withdraw the entire amount. No costs.

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

JUSTICE T.AMARNATH GOUD

Date: 09.08.2019
kvr