

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1808 of 2010

JUDGMENT:

This appeal is filed by the appellant-insurance company aggrieved by the Order and Decree dated 04-01-2010 passed in M.V.O.P.No.754 of 2006 by the Motor Vehicle Accidents Claims Tribunal-cum-Principal District Judge, Warangal (for short, the Tribunal).

2. Brief facts of the case are that on 06-12-2005, at about 0930 hours, while the claimant-P.Ganesh Rao was proceeding on his Hero Honda Splendor Motorcycle bearing No.AP 11E 2568 and when he reached opposite to the Green Wood College, Hunter Road, Kazipet, Warangal, the driver of the tipper lorry bearing No. ATO 3835, drove it in a rash and negligent manner at a high speed and rammed against him and caused fracture injuries to him. He was shifted to NIMS, Hyderabad and was treated as an in-patient and incurred huge expenses but he continues to suffer from partial permanent disability. He filed the claim petition claiming compensation of Rs.12.00 lakhs towards the injuries sustained by him against the 1st respondent-owner of the vehicle and the 2nd respondent-insurer.

3. In the claim petition, the appellant-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 tipper lorry bearing No. ATO 3835 only. It held that the claimant is entitled to the compensation of Rs.7,04,537-50ps i.e. Rs.4,92,061-50ps as notional compensation for partial permanent disability of 50%; Rs.43,000/- towards pain and suffering from various fractures, Rs.22,750/- towards transportation, Rs.16,706/- towards reimbursement of leave salary and Rs.1,30,020/- towards medical expenses. Accordingly, it partly allowed the claim petition granting total compensation of Rs.7,04,537-50ps with interest at 6% per annum.

5. Aggrieved by the same, the insurance company filed the present appeal.

6. Heard the learned Standing Counsel for the appellant-insurer and the learned counsel for the 1st respondent-claimant.

7. The only contention raised by the learned counsel for the appellant-insurer is that the Tribunal erred in granting huge amount of Rs.4,92,061-50ps as notional compensation for partial permanent disability of 50%, but the claimant has not suffered any future loss in respect of salary income. Hence, the said quantum of compensation may be reduced to an amount of Rs.1.00 lakh under this head. So far as the compensation granted under other heads is concerned, he did not raise any objection for the same.

8. This Court unable to accept the said contention to some extent on the issue of fixing the notional compensation. In respect of disability is

concerned, though Ex.A-11 indicates that the claimant has suffered partial permanent disability at 50%, but he has not placed before the Court any evidence to prove that disability would affect on his salary income except that he continues to suffer from discomfort due to partial permanent disability. However, at the same time, it cannot be ignored the amount of discomfort due to the partial permanent disability he would suffer. In view of the same, this Court feels that since the amount computed by the Tribunal is excessive, the same would be reasonable, if it is reduced to Rs.2.00 lakhs instead of Rs.4,92,061-50ps towards notional compensation as he has no loss of future earnings.

9. So far as the compensation granted in respect of other heads is concerned, this Court feels that all those amounts are reasonable and need no interference by this Court. Therefore, since this Court feels that the amount awarded towards disability is excessive and the same is reduced to some extent, the total compensation is now granted as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Notional compensation for partial permanent disability.	Rs.4,92,061-50	Rs.2,00,000/-
02.	Pain and suffering	Rs.43,000/-	Rs.43,000/-
03.	Transportation	Rs.22,750/-	Rs.22,750/-
04.	Reimbursement of leave salary	Rs.16,706/-	Rs.16,706/-
05.	Medical expenses	Rs.1,30,020/-	Rs.1,30,020/-
Total		Rs.7,04,537-50	Rs.4,12,476/-

10. In the result, appeal is allowed in part by reducing the compensation awarded by the Tribunal from Rs.7,04,537-50 to

Rs.4,12,476/- (Rupees Four Lakhs Twelve Thousand Four Hundred and Seventy Six only). No costs.

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

JUSTICE T.AMARNATH GOUD

Date: 31.07.2019
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