

HON'BLE SRI JUSTICE T. AMARNATH GOUD

M.A.C.M.A.No.161 of 2010

JUDGMENT:

Aggrieved by the judgment and decree dt.29.10.2007 in O.P.No.630 of 2004 passed by the Chairman, Motor Accident Claims Tribunal-cum-VI Additional District Judge, Kamareddy, Nizamabad District (for brevity "the Tribunal"), awarding a sum of Rs.22,600/- towards compensation with proportionate costs and interest at 7.5% per annum, as against the claim of Rs.2,00,000/-, for the injuries sustained by the appellant-claimant, being a minor, represented by his father, in a motor accident that occurred on 17.01.2004, near Primary Health Centre, Gopalpet Village, Nizamabad District, due to the rash and negligent driving on the part of driver of the lorry bearing No.AP 20T 5675, the present civil miscellaneous appeal has been preferred by the appellant-claimant.

The appellant herein is the claimant, respondent No.2, who was set *exparte* before the Tribunal, is the owner of the offending lorry and respondent No.1 is its insurer in O.P.No.630 of 2004 before the Tribunal.

This is a case of injuries sustained by the claimant in a motor accident. The case of the appellant-claimant is that, while he was going on a cycle and when he reached near

Primary Health Centre in Gopalpet Village, the offending lorry bearing No.AP 20T 5675 came behind him at high speed in a rash and negligent manner and dashed his cycle, as a result of which, the claimant sustained compound fracture to his right leg and received other injuries on the head, back and other parts of the body. Immediately, he was taken to the Primary Health Centre, Nagireddypet and later he was shifted to the Government Civil Hospital, Kamareddy, and subsequently he took treatment with private doctors and incurred an expenditure of Rs.50,000/- towards treatment, medicines and other incidental charges. He filed the above O.P. claiming compensation of Rs.2,00,000/- with interest @ 24% per annum from the date of the petition till the date of realisation.

The Tribunal, after appreciating the evidence on record, both oral and documentary, and also taking into consideration the nature of injuries suffered by the claimant, awarded a sum of Rs.22,600/- towards compensation with proportionate costs and interest at 7.5% per annum from the date of the petition till the date of realisation. Having not satisfied with the same, the claimant has preferred the present appeal.

Heard Sri L. Shantharam, learned counsel for the appellant-claimant as well as Sri Somanchi Venkateswarlu,

learned Standing Counsel for respondent No.1 – United India Insurance Company Limited. Perused the material on record.

Learned counsel for the appellant-claimant contended that the Tribunal failed to appreciate oral and documentary evidence on record and awarded a meager amount of compensation of Rs.22,600/-, instead of awarding compensation as claimed by the appellant. The learned counsel further contended that the Tribunal failed to consider the gravity of injuries suffered and also pain and suffering undergone by the claimant in awarding compensation.

On the other hand, learned Standing Counsel for respondent No.1 – Insurance Company contended that the compensation awarded by the Tribunal is just and reasonable and the same requires no interference by this Court.

The only point that arises for consideration in this appeal is, whether the quantum of compensation awarded by the Tribunal is proper and justified.

From a perusal of the record, it is evident that the Tribunal has failed to consider the gravity of injuries suffered by the claimant in view of the compound fracture. Due to the said compound fracture, the appellant-claimant became unfit to attend the duties for a period of almost four months. Therefore, this Court is of the considered view that awarding of Rs.10,000/- for the compound fracture suffered by the

claimant is very less and hence the same is enhanced to Rs.25,000/-. Insofar as amount of Rs.2,000/- awarded towards the cost of medicines, a perusal of Ex.A.6-original Medical Bills shows that the claimant has incurred a sum of Rs.14,000/- towards medicines. Therefore, the amount of Rs.2,000/- awarded towards cost of medicines is very less, since the said Medical Bills pertain to the same period of treatment. Hence, the amount awarded towards cost of medicines is enhanced from Rs.2,000/- to Rs.14,000/-. and that the amount of Rs.3,000/- awarded towards cost of treatment is enhanced to Rs.5,000/-. Further, as regards the amount of Rs.1,000/- awarded towards extra nourishment is concerned, the same is very less. Due to the said injuries, the claimant was under treatment for a period of 4 months. Even if a sum of Rs.2,000/- per month is taken towards extra nourishment, for 4 months, it comes to Rs.8,000/- (Rs.2,000/- x 4) and accordingly, the amount towards extra nourishment is enhanced from Rs.1,000/- to Rs.8,000/-. As regards transport charges, this Court is not inclined to interfere with the amount of Rs.1,000/- awarded by the Tribunal towards transport charges and the same remains unaltered. So far as the amount awarded towards loss of earnings is concerned, the Tribunal has taken into consideration average wage for a labourer at Rs.70/- per day and by taking that a labourer would get work for 20 days in a month, the wages of claimant were calculated at Rs.1,400/-

per month. Admittedly, due to the compound fracture to the right leg, no one would be able to do any labour work at least for a period of 4 months. Thus, the tribunal has awarded a sum of Rs.5,600/- (Rs.1,400/- x 4 = Rs.5,600/-) towards loss of earnings during the period of treatment to the claimant. This Court is of the considered view that the said amount of Rs.5,600/- awarded towards loss of earnings is very unrealistic. Even as per the Minimum Wages Act, a labourer would earn a sum of Rs.135/- per day and if he gets work for 20 days in a month, it comes to Rs.2,700/-. As the claimant remained idle without any work during treatment for a period of 4 months, the loss of earnings comes to Rs.10,800/-. Therefore, the amount towards loss of earnings is enhanced from Rs.5,600/- to Rs.10,800/-.

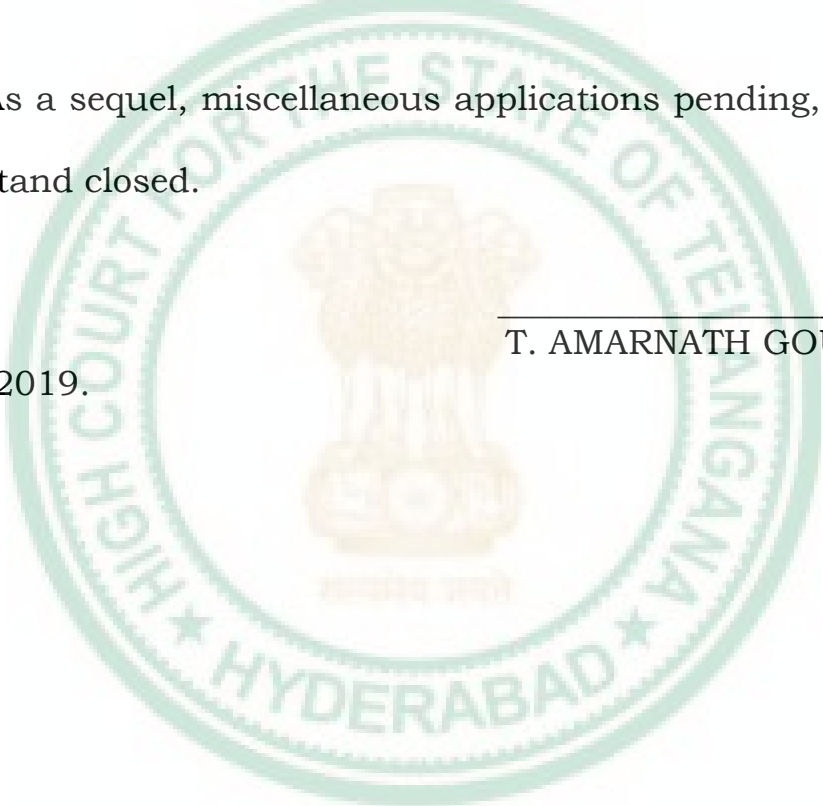
Thus, the compensation awarded by the Tribunal under different heads is enhanced by this Court, as detailed below :

Name of the Head	Amount awarded by Tribunal	Amount awarded by this Court
Compound Fracture	10,000-00	25,000-00
Cost of treatment	3,000-00	5,000-00
Cost of medicines	2,000-00	14,000-00
Extra nourishment	1,000-00	8,000-00
Transport charges	1,000-00	1,000-00
Loss of earnings	5,600-00	10,800-00
TOTAL :	22,600-00	63,800-00

Accordingly, the civil miscellaneous appeal is allowed in part, enhancing the total amount of compensation from Rs.22,600/- to Rs.63,800/- (Rupees sixty three thousand eight hundred only). The additional amount of Rs.41,200/- (Rs.63,800/- - Rs.22,600/- = Rs.41,200/-) (Rupees forty one thousand two hundred only) shall carry interest @ 7.5% per annum from the date of filing of the O.P. before the Tribunal, till the date of realization. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

19.06.2019.
Msr

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