

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2124 of 2008

JUDGMENT:

The appellant-claimant filed this appeal against the order and decree dated 08.04.2008 passed in O.P.No.398 of 2006 by the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge-cum-XXII Additional Chief Judge, City Criminal Courts, Hyderabad.

2. The brief facts of the case are that on 24.10.2006 at 7.45 PM., while the petitioner/claimant was proceeding on Hero Honda Motorcycle bearing No.AP-29-A-6734 along with a pillion rider from Ibrahimpatnam towards Kappapadu Village and when they reached near Vani Mess, a lorry bearing No.AP-7V-5877, driven by its driver in a rash and negligent manner, came from opposite direction on wrong side and dashed against his motorcycle, due to which, the petitioner sustained multiple injuries all over his body and the pillion rider died on the spot. Immediately, the petitioner was shifted to Ankitha Multi Speciality Hospital, Santhoshnagar. He sustained permanent disability due to the injuries. Hence, the petitioner filed aforesaid O.P., claiming compensation of Rs.3,00,000/- for the injuries sustained by him in the accident.

3. The 1st respondent-owner of lorry remained *ex parte*. The 2nd respondent filed counter denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the petitioner is highly excessive and exorbitant and sought to dismiss the petition.

4. During the course of trial, the petitioner examined P.Ws.1 and 2 and got marked Exs.A1 to A9. On behalf of the respondents, no oral evidence was adduced, but Ex.B1-copy of insurance policy was marked.

5. After considering the material on record and the evidence adduced by the parties, the Court below allowed the O.P. in part awarding compensation of Rs.85,000/- with interest at 6% p.a. from the date of petition till the date of realization payable by respondents 1 and 2 jointly and severally. Aggrieved by the said quantum of compensation, the petitioner preferred the present appeal.

6. Heard Sri B. Venkat Reddy, learned counsel for the appellant/claimant and Sri K. Prasad, learned Standing Counsel for respondent No.2.

7. The Court below, after considering the material on record, awarded compensation of Rs.85,000/- as against the claim of Rs.3,00,000/- claimed by the claimant for the injuries sustained by him in the accident. P.W.2-Doctor has stated in his evidence that he examined the claimant on 24.10.2006 and found dislocation of his left shoulder apart from other injuries and that under general anesthesia, wound debridement dislocation reduced, muscle sutured with vyckrill artery repair done, intercost chest tube kept and wound closed after securely haemostoms thoroughly one unit of blood transfusion was done to the claimant and accordingly, he issued Exs.A4-wound certificate,A5-discharge summary, A6-discharge bill and A9-disability certificate. Though P.W.2 had assessed the percentage of disability of the claimant at 20% due to dislocation of

his left shoulder, by issuing Ex.A9-disability certificate, the Court below has not awarded any compensation towards permanent disability. The claimant being an agriculturist was unable to cultivate the land due to dislocation of his left shoulder, which would certainly cause hardship to him. Therefore, it would be appropriate to award compensation towards permanent disability at 20%, as assessed by P.W.2. The annual income of the claimant being agriculturist should be taken at Rs.20,000/-. As the claimant was aged about 22 years at the time of the accident, the appropriate multiplier, as per the decision of the Apex Court in **Sarla Verma v Delhi Transport Corporation**¹ is '18' and therefore, the compensation towards permanent disability would come to Rs.72,000/- (Rs.20,000/-x18X20%). Thus, an amount of Rs.72,000/- is awarded to the claimant towards permanent disability. Except the said enhancement, the award passed by the Court below remains unchanged. The enhanced amount shall be paid along with interest @ 7.5% p.a., from the date of filing of this appeal to its realization.

8. Accordingly, the appeal is partly allowed to the extent indicated above. Miscellaneous petitions, if any pending in this appeal, shall stand closed. No order as to costs.

T.AMARNATH GOUD, J

8th July, 2019

sj

¹ 2009(6) SCC 121