

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1911 of 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 05-09-2005 passed in O.P.No.1246 of 2002 by the Chairman, M.A.C.T., Nalgonda (for short, the Tribunal).

2. Brief facts of the case are that the claimant filed the claim petition against the respondents claiming compensation of Rs.2.00 lakhs for the injuries sustained by him in the accident occurred on 02-08-2002 due to the rash and negligent driving of the driver of the auto bearing No.AP 24 U 7327, driven by its driver when he is proceeding on his scooter bearing No.AP 10 A 4911, at Hill Colony.

3. In the claim petition, 3rd 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 trial Court 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.32,000/- towards pain and suffering, loss of earnings, loss of amenities in life, transportation and extra nourishment. However, attributing 25%

contributory negligence, compensation is restricted to 75% i.e. Rs.24,000/- only, payable by the respondents jointly and severally, 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 3rd respondent.

7. Learned counsel for the appellant-claimant contends that the trial Court erred in awarding meager compensation of Rs.32,000/- under all the heads referred to above and seeks to enhance the compensation by exonerating the claimant from contributory negligence.

8. As seen from the material available on record, the Tribunal has granted Rs.32,000/- in a lumpsum under all heads referred to above. In my considered view, it is a meager amount and the same is to be enhanced since admittedly, the claimant suffered two grievous fractures and one simple injury. Therefore, granting Rs.15,000/- each to the two grievous non-surgical injuries i.e. Rs.30,000/-; Rs.1,000/- towards laceration injury; Rs.2,000/- towards extra-nourishment; Rs.3,000/- towards medicines; Rs.1,000/- towards transportation and Rs.4,000/- towards loss of income, totaling Rs.41,000/-, is just and proper.

9. Insofar as contributory negligence is concerned, the respondents failed to prove the negligence on the part of the claimant and in the light of the charge sheet filed by the Investigating Officer, which indicates that due to the rash and negligent driving of the auto, the accident has taken place. Therefore, the finding of the Tribunal in respect of 25% contributory negligence on the part of the claimant is set aside. Therefore, the claimant is entitled to be granted total compensation of Rs.41,000/- as stated above.

10. In the result, the appeal is allowed in part by enhancing the compensation awarded by the trial Court from Rs.24,000/- to Rs.41,000/- (Rupees Forty One 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.

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

JUSTICE T.AMARNATH GOUD

Date: 06.11.2019

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