

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1427 OF 2008

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 13.03.2008 passed in O.P.No.59 of 2005 by the Special Judge for the Trial of Offences under S.Cs and S.Ts (POA) Act-cum-VI Additional Metropolitan Sessions Judge-Additional Chairman, Motor Accidents Claims Tribunal-cum-XX Additional Chief Judge, at Secunderabad (for short, the Tribunal).

2. The brief facts of the case are that on 23.12.2003 at about 10.45 P.M., while the appellant and his friend were returning from Medchal to Hyderabad in Maruthi 800 Car bearing No.AP 28AH 6462, and when the car reached the Mallareddy Garden, suddenly a lorry came in opposite direction and due to its light, the driver of the said car lost its control and the car fell in a ditch by the side of the road. Consequent to the said accident, the appellant and his friend fell down from the car and the appellant sustained grievous injuries all over his body. The appellant was immediately shifted to the Appollo Hospital, Jubilee Hills, Hyderabad. The appellant sustained injury to head, neck and left hand, central cord contusion, cervical spine injury and other injuries all over his body. The appellant was treated as inpatient in Apollo Hospital from 23.12.2003 to 30.12.2003. The appellant was later shifted to Hyderabad Nursing Home, Basheerbagh, Hyderabad, wherein he was treated as inpatient from 30.12.2003 to 08.01.2004. The

police, Bowenpally Police Station, has registered the case in Crime No.422 of 2003. The appellant was hale and healthy at the time of accident and he is the General Manager in the Bambino Agro Industries having monthly salary of Rs.34,000/-, due to injuries sustained by him, he could not attend to his duties for one full month on loss of pay and is not in a position to stand or walk for longer and is not in a position to lift and bear even medium the limb weakness. As such the appellant has become permanently disabled and the appellant's present as well as future earnings and prospects are badly affected solely due to the said accident. In the claim petition, the appellant claimed an amount of Rs.4,00,000/- as compensation. The 1st respondent, who is the owner of the crime vehicle and the 2nd respondent, who is the insurer of the said vehicle involved in the said accident, are liable to pay the said compensation to the appellant.

3. Before the Tribunal, both the respondents filed separate counters 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 of the driver of the crime vehicle and awarded compensation of Rs.68,595/- with interest @ 6% per annum, i.e., Rs.40,000/- towards grievous

injuries, Rs.5,000/- towards simple injuries, Rs.5,000/- towards pain and suffering, Rs.1,000/- towards transport charges, Rs.1,000/- towards extra nourishment and Rs.16,595/- towards loss of earnings. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Since the amount of Rs.5,000/- granted by the Tribunal towards pain and suffering is very meager, this Court feels just and proper to enhance the same to Rs.20,000/-. With regard to the amount of Rs.1,000/- awarded by the Tribunal towards extra nourishment charges, this Court feels just and proper to enhance the same by Rs.5,000/-. With regard to the head of loss of earnings, by taking the monthly net salary of the appellant as Rs.24,893/- and by deducting 1/3rd towards personal expenses, an amount of Rs.16,595/- was granted by the Tribunal, but since the appellant was hospitalized and could not attend the office for four months in view of the grievous injuries i.e., cervical spine injury and central cord syndrome and other simple injuries i.e., head and neck injuries, this Court feels just and proper that if one month net salary is awarded to the appellant. Accordingly, an amount of Rs.24,893/- is enhanced under the head of 'loss of earnings'. Since the Tribunal did not grant any amount towards attendant charges, this Court feels just and proper to fix an amount of Rs.100/- per

day towards attendant charges. Therefore, this Court is inclined to grant an amount of Rs.12,000/- (Rs.100/- x 30 days x 4 months) since the appellant was hospitalized for a period of four months.

7. Accordingly, this Court enhanced the compensation under various heads as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Grievous Injuries	Rs.40,000/-	Rs.40,000/-
02.	Simple Injuries	Rs.5,000/-	Rs.5,000/-
03.	Pain and Suffering	Rs.5,000/-	Rs.20,000/-
04.	Transport Charges	Rs.1,000/-	Rs.1,000/-
05.	Extra Nourishment	Rs.1,000/-	Rs.5,000/-
06.	Loss of Earnings	Rs.16,595/-	Rs.24,893/-
07.	Attendant charges	-	Rs.12,000/-
TOTAL		Rs.68,595/-	Rs.1,07,893/-

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.68,595/- to Rs.1,07,893/-. The enhanced amount shall carry interest @ 7.5% per annum. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 24th June, 2019

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