

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.341 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 07.12.2005 passed in O.P.No.930 of 2002 by the IV Additional District & Sessions Judge, Fast Track Court, Ranga Reddy District (for short, the Court below).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Court below in the original petition.

3. The brief facts of the case are that on 27.06.2000 at about 2.40 p.m., while the petitioner along with one Mahinder were proceeding on a scooter towards Telephone Exchange, Shameerpet, from Shameerpet Village and when they reached near Rajiv Rahadari of Telephone Exchange, one lorry bearing No.KA 07 567 came in high speed, rash and negligent manner from Hyderabad towards Karimnagar and dashed the petitioner, due to which, the petitioner fell down on the road and sustained grievous injuries. The petitioner travelled as a pillion rider of the scooter. The petitioner sustained fracture of left leg thigh bones and injuries on head, chest and other injuries all over the body. Immediately he was shifted to Gandhi Hospital, Secunderabad, for treatment. Prior to the accident, the petitioner was hale and healthy and he worked as a labourer and earned Rs.2,000/- per month. But due to the accident and due to the injuries, he sustained permanent disability and lost his earning capacity.

Hence, the petitioner filed the claim petition claiming compensation of Rs.1,00,000/-, payable by both the respondents, being the owner and insurer of the offending lorry.

4 Before the Court below, Respondent No.1 remained *ex parte*. Respondent No.2 filed counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-5, Exs.C-1 to C-3 & Ex.B-1, the Court below came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending lorry and awarded total compensation of Rs.44,000/- i.e., Rs.25,000/- towards pain and suffering, Rs.4,000/- towards medical expenses, Rs.2,000/- towards transportation charges, Rs.3,000/- towards extra nourishment and Rs.10,000/- towards loss of earnings, with interest @ 7.5% per annum from the date of petition till the date of payment, payable by both the respondents. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. Sri K.L.N. Rao, learned counsel appearing for the appellant, died and notice has been directed to be issued to the appellant on 24.11.2016, 08.02.2018, 20.06.2019, 05.09.2019 and finally on 13.09.2019, this Court directed to print the name of the appellant and list the same. Accordingly, the same is

listed today by printing the name of Sri O.Murali Krishna as party-in-person/appellant/claimant. Heard Sri T.Ramulu, learned standing counsel appearing for the 2nd respondent/insurance company. Perused the material records.

7. In view of the evidence of P.W.2-Dr.N.Ravindra Kumar, wherein he deposed that on examination, he found shortening of 2 ½ inches left leg with limp and assessed the disability of the petitioner @ 40%, which the Tribunal has declined to consider the same. Though Ex.C-3-Physical Disability Certificate was issued, the Tribunal has not taken into consideration Ex.C-3 since the same is not issued by the Medical Board. With regard to the appellant facing discomfort, the Tribunal ought to have considered some compensation. Hence, this Court feels that it would be just and appropriate to award an amount of Rs.10,000/- under the head of discomfort. Therefore, the total compensation comes to Rs.54,000/- (Rs.44,000/-+Rs.10,000/-). Except the said enhancement, rest of the award remains unchanged.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Court below from Rs.44,000/- to Rs.54,000/-, payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. The respondents are directed to deposit the enhanced amount along with proportionate costs

and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the entire amount. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

T.AMARNATH GOUD, J

Date: 31st October, 2019

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