

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.Nos.840 OF 2011 & 1204 OF 2012

COMMON JUDGMENT:

MACMA.No.840 of 2011 is preferred by the 2nd respondent/insurance company and MACMA.No.1204 of 2012 is preferred by the petitioner/claimant questioning the order of the Motor Accidents Claims Tribunal (Judge, Family Court-cum-Additional District Judge), Khammam (for short, the Tribunal) in M.A.T.O.P.No.1130 of 2007 dated 17.09.2010.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the M.A.T.O.P. before the Tribunal.

3. The brief facts of the case are that on 25.07.2007 at about 9.00 hours, the petitioner along with his mother boarded an auto bearing No.AP 16/TU 5434 with a view to go to office and when the said auto reached near Chityala, the driver of the said auto drove it in a rash and negligent manner with a high speed, due to which the central axel of the said auto was broken and the auto has turned turtle, as a result of which, the petitioner and his mother received both grievous and simple injuries. The petitioner was working as Assistant Engineer in Dummugudem Project and was drawing Rs.18,900/- as salary per month. Prior to the accident, the petitioner was hale and healthy and on account of the accident, the petitioner is unable to attend his normal duties and he is suffering with severe pain in his right leg. Hence, the petitioner filed the present claim petition

claiming a compensation of Rs.2,50,000/- towards general and special damages payable by respondents 1 & 2, who are owner and insurer of the offending auto bearing No.AP 16/TU 5434.

3. In the claim petition, the respondents 1 & 2 filed separate written statements denying the allegations and contended that the amount claimed by the petitioner is highly excessive and that they are not liable to pay any compensation and therefore 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 offending auto and awarded total compensation of Rs.1,80,000/- with interest @ 7.5% per annum i.e., Rs.20,000/- towards grievous injury, Rs.93,000/- towards medical & ancillary expenses, Rs.50,000/- towards second surgery, Rs.7,000/- towards ambulance/transportation charges and Rs.10,000/- towards loss of earnings and pain & sufferings. Aggrieved by the said order, the 2nd respondent/insurance company filed MACMA.No.840 of 2011 and the petitioner/claimant filed MACMA.No.1204 of 2012.

5. Heard.

6. Though the claim is made for Rs.2,50,000/-, it is a bounden duty of this Court to award just and proper compensation. P.Ws.1 & 2 deposed that the petitioner sustained

a fracture to his right femur and a surgery was conducted to his right femur and steel rods and nail plates were inserted and bone grafting was also done and he was advised to take bed rest for six months and he was advised to undergo another surgery for removal of steel rods.

7. In the facts and circumstances of the case, this Court feels that it would be appropriate to enhance the compensation under various heads as follows:

Sl. No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Grievous injuries	Rs.20,000/-	Rs.50,000/-
02.	Medical & other ancillary expenses	Rs.93,000/-	Rs.93,000/-
03.	Second Surgery	Rs.50,000/-	Rs.60,000/-
04.	Ambulance/ Transportation charges	Rs.7,000/-	Rs.27,000/-
05.	Loss of earnings and Pain & Sufferings	Rs.10,000/-	Rs.30,000/-
TOTAL		Rs.1,80,000/-	Rs.2,60,000/-

8. In the result, the M.A.C.M.A.No.840 of 2011 is dismissed and the M.A.C.M.A.No.1204 of 2012 is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.1,80,000/- to Rs.2,60,000/-. The enhanced amount shall carry interest @ 7.5% per annum. The enhanced amount shall be paid to the claimant on payment of deficit Court fee as the claimant paid Court fee claiming an amount of Rs.2,50,000/-.
 No costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 18th July, 2019

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