

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 1337 OF 2006

JUDGMENT:

This appeal is directed by the claimant against the judgment and decree dated 13.02.2006 passed by the Motor Accidents Claims Tribunal-cum-Principal District Judge, Ranga Reddy District at L.B.Nagar in M.O.P.No.457 of 2002, whereby the tribunal granted compensation of Rs.3,35,000/- with proportionate costs and interest @ 7.5% per annum on account of the accident occurred on 11.05.2002 at about 09.00 A.M. while the claimant travelling on a scooter bearing No.AP 28 Q 5367 from Bairamalguda to go to L.B.Nagar Ring Road, when he reached near Rohini Traders, L.B.Nagar, one lorry bearing No. KA 39 1811 being driven by its driver at a high speed in a rash and negligent manner, came from behind and dashed the scooter, for which the claimant sustained grievous and simple injuries and on his right leg, he was taken to NIMS Hospital and underwent two operations for correction of the fractures to the leg and fixed implants and that he suffered permanent disability and unable to do his routine work, against the claim of Rs.5,00,000/-.

2. For the sake of convenience, the parties herein are referred to as arrayed in the tribunal.

3. Before the tribunal, in order to prove the case of the claimant, PWs.1 to 3 were examined and marked Exs.A1 to A.13.

On behalf of the respondents, no oral evidence was adduced, but EX.B.1 – copy of policy was marked.

4. Learned counsel appearing for the claimant contended that the tribunal failed to appreciate the evidence available on record in proper perspective and that the compensation granted by the tribunal is meager and hence, prayed to grant just and proper compensation by allowing the appeal.

5. Learned standing counsel for the insurance company contended that the order passed by the tribunal is well considered and needs no interference of this Court.

6. On perusal of the entire material available on record and having regard to the facts and circumstances of the case, it is a case of injuries. The petitioner is working as Mason, aged about 30 years as on the date of accident. Since the claimant is skilled worker as per the decision of the Apex Court in **Ramachandrappa v Royal Sundaram Alliance Insurance Co. Ltd.**¹, notional income of Rs.4,500/- can be taken as monthly income and accordingly, the same is considered. PW.3 is the doctor, who treated the claimant in the NIMS Hospital. Ex.A.13 is the disability certificate showing that the percentage of disability at 40%. But PW.3, doctor, deposed that the extent of disability is only 25% and it is permanent and partial in nature and hence, the disability at 25% taken by the tribunal is well considered and the claimant is entitled for Rs.2,29,500/- (Rs.4,500/- x 12 x 17 x 25%) towards

¹ (2011) 13 SCC 236

future loss of earnings and that the claimant sustained four grievous fractures and hence, the claimant is entitled for Rs.60,000/- (Rs.15,000/- for each fracture). As the claimant admitted in the hospital and inpatient as 40 days and took treatment for two and half years, Rs.12,000/- granted by the tribunal is meager, it was enhanced to Rs.50,000/-. The compensation under the head of hospital, medical, transport, extra nourishment, attendance and other incidental expenses of Rs.1,50,000/- granted by the tribunal is confirmed. Thus, the claimant is entitled for Rs.4,89,500/- (Rs.2,29,500/- + Rs.50,000/- + Rs.60,000/- + Rs.1,50,000/-), rounded to Rs.4,90,000/-. The enhanced compensation shall carry interest @ 7.5 % per annum from the date of petition till the date of realization. The claimant is entitled to withdraw the compensation amount soon after the deposit is made. In all other aspects order passed by the tribunal is well considered.

7. In view of the above, the appeal is allowed in part.. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 21.11.2019
kvrn