

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.811 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Judgment and Decree dated 28.10.2005 passed in O.P. No.131 of 2002 by the Motor Accidents Claims Tribunal (V Additional District Judge) at Nizamabad (for short, the Tribunal) for awarding compensation of Rs.6,000/- though claimed of Rs.2,00,000/- against owner and Insurer of the crime vehicle auto bearing No.AP-25-T-8530.

2. The brief facts of the case are that on 06.06.2001 the petitioner, a school going minor boy of 15 years, a vegetable vendor and a student earning Rs.4,000/- per month as claimed, represented by his mother and natural guardian Smt. Bharathi, along with other persons namely Laxman, Sandhya, Vijaya and Amruth were traveling in the aforesaid auto from Manikbhandar to Nizamabad and when reached near Gupanpally village outskirts at Chandramohan Dharmakanta at about 12.00 noon, due to rash and negligent driving of the driver of the said auto, it was turtled and the inmates of the auto sustained injuries. The petitioner in particular sustained fracture to right leg both bones and right clavicle and in general received injuries on various parts of the body. Immediately he was shifted to Government Head quarters hospital, Nizamabad for treatment and then shifted to a private hospital for further treatment.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 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 Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the auto and awarded total compensation of Rs.6,000/- only under the head of pain and suffering only with interest @ 7.5% per annum. Dissatisfied with the quantum of compensation, the injured filed the present appeal, seeking enhancement of the same.

5. Heard the learned counsel for the petitioner; the learned counsel for the 1st respondent and the learned Standing Counsel for the 2nd respondent-Insurer and perused the material on record.

6. Learned counsel for the petitioner contends that the amount awarded by the tribunal is very meager and the same is to be awarded as prayed for by considering even the other aspects and following relevant decisions of the Apex Court.

7. On the other hand, the learned counsel for the respondent No.1/Owner of the crime vehicle and the learned Standing Counsel for the 2nd respondent/Insurer opposed the claim of the petitioner and submitted that the tribunal arrived to a right conclusion in awarding just compensation and the appeal may be dismissed.

8. Admittedly, accident took place and the claimant/appellant was admitted in the hospital for treatment and same is proved by the documentary evidence of Exs.A.1 to A.4 viz: First Information Report, police requisition and wound certificate. Though the petitioner claimed that he took treatment in a private hospital but failed to prove the same either by oral or documentary evidence. The records reveals that he failed to appear before the Government Medical Board of Doctors, Nizamabad despite of the order of the Tribunal in I.A.No.555 of 2005 on 01.07.2005 and drawn adverse inference against his case. As per Ex.A.4-wound certificate the Government Doctor L.Ramulu clinically opined that the petitioner sustained only two simple injuries viz; 1) Fracture of right leg both bones and 2) Fracture of right clavicle and he petitioner was treated as out-patient. Even the Ex.A.4-wound certificate is silent about any X-rays taken and opinion of the Radiologist to prove the clinical opinion of above doctor.

9. In view of the above, this Court feels that the compensation awarded by the Tribunal of Rs.6,000/- is very meager and the same needs to be enhanced to Rs.26,000/-by awarding Rs.10,000/- each for two injuries and Rs.6,000/- towards pain and suffering same as awarded by the tribunal. Except the said enhancement, the Judgment of the Tribunal remains unchanged.

10. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.6,000/- to Rs.26,000/-. The enhanced

amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 18.09.2019
Vvr

T.AMARNATH GOUD, J

