

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.528 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the order and decree dated 15.10.2005 passed in O.P.No.208 of 2001 by the Motor Accident Claims Tribunal-cum-II Additional District Judge, Mahabubnagar (for short, the Tribunal).

2. The brief facts of the case are that on 18.10.2000 at about 09.30 a.m., while the petitioner was proceeding in the van bearing No.AP 9V 8866 on official work, the driver of the said van drove it in a rash and negligent manner and when he tried to overtake another lorry, dashed a lorry bearing No.AP 12T 4813, due to which, the petitioner and others sustained injuries. Hence, the petitioner filed the claim petition claiming compensation of Rs.3,00,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent No.3 remained *ex parte*. Respondent Nos.1, 2 and 4 filed 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 van and awarded total compensation of Rs.1,44,000/-.

5. Heard.

6. There is no dispute with regard to the injuries suffered by the appellant-claimant in a motor accident that occurred on 18.10.2000 due

to the rash and negligent driving of the driver of the van bearing No.AP-9V-8866. The only dispute is with regard to quantum of compensation.

7. The Tribunal while dealing with the claim petition elaborately dealt with the injuries suffered by the appellant with reference to the oral and documentary evidence and assessed Rs.1,00,000/- towards medical expenses, Rs.70,000/- towards disability and Rs.70,000/- towards injuries, which comes to Rs.2,40,000/- and after deducting 40% towards contributory negligence, the Tribunal granted compensation of Rs.1,44,000/- to the appellant.

8. Learned counsel for the appellant contended that there is no contributory negligence on the part of the driver of the van and prayed to set aside the finding of the Tribunal with regard to the said aspect. Learned counsel for the respondents did not oppose for the same.

9. Having regard to the material on record, this Court is of the view that there is no contributory negligence on the part of the driver of the van.

10. As per record, the appellant incurred more than Rs.1,17,173/- towards medical expenses, but the Tribunal assessed Rs.1,00,000/- for the same. Hence, it is enhanced to Rs.1,17,000/-. The Tribunal had not granted any amount towards pain and suffering. Hence, an amount of Rs.15,000/- is granted under the said head. In total, the appellant is entitled for an amount of Rs.2,72,000/- towards compensation.

11. In the result, the appeal is partly allowed modifying the order, dated 15.10.2005, passed by the Tribunal in O.P.No.208 of 2001 enhancing the compensation from Rs.1,44,000/- to Rs.2,72,000/- with interest @ 7.5% per annum on the enhanced compensation from the date

of petition till the date of deposit. On such deposit, the appellant is permitted to withdraw the same along with the interest accrued thereon. There shall be no order as to costs.

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

30.09.2019
ssp

T.AMARNATH GOUD, J

