

**HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**M.A.C.M.A. No.2120 of 2009**

**JUDGMENT:**

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 09-02-2009 passed in O.P.No.124 of 2006 by the Motor Vehicle Accidents Claims Tribunal-cum-XII Additional Chief Judge, City Criminal Court at Hyderabad (for short, the Tribunal).

2. Brief facts of the case are that on 07-12-2003, at about 4.30 hours, when the petitioner was travelling on lorry bearing No.AP 10V 8790 and when his lorry reached near Little Flower Junior College, Uppal, one other lorry bearing No.AP 11T 1787 coming from opposite direction in a wrong side, dashed against the petitioner's lorry, due to which, the driver of the 1<sup>st</sup> respondent died on the spot and the claimant sustained grievous injuries and was admitted in Kamineni Hospital. Hence, the claimant filed claim petition claiming compensation of Rs.4.00 lakhs for the injuries sustained by him against the respondents who are the owner and insurer of the crime vehicle respectively.

3. In the claim petition, the 2<sup>nd</sup> respondent-insurer 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 on the part of the driver of the crime vehicle only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.2,84,429/- i.e. Rs.50,000/- towards pain and suffering; Rs.1,44,429/- towards medical expenditure; Rs.20,000/- towards disability; Rs.20,000/- towards extra nourishment; Rs.10,000/- towards loss of income for bed rest for two months; and Rs.40,000/- towards future operation charges. Accordingly, it partly allowed the claim petition granting compensation of Rs.2,84,429/- with interest at 9% per annum through out.

5. Dissatisfied with the quantum of compensation, the appellant/claimant filed the present appeal, seeking for enhancement of the compensation.

6. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the 2<sup>nd</sup> respondent-insurer.

7. Learned counsel for the appellant-claimant contends that the Tribunal erred in awarding meager compensation of Rs.20,000/- in a lump sum by taking percentage of disability at 20%. However, while granting compensation towards disability, the Court has to come to the conclusion after assessing the monthly income, multiplier etc., and then necessary computation is to be done. Therefore, the claimant is entitled for fair compensation.

8. Learned Standing Counsel for the 2<sup>nd</sup> respondent contends that the Tribunal awarded compensation in a just and proper manner and he supported the order passed by the Tribunal.

9. As seen from the order of the Tribunal, the Tribunal has taken monthly income of the claimant as Rs.5,000/- per month. Further, it is not known how it came to the conclusion to grant Rs.20,000/- straight away without basing on the necessary computation. Admittedly, the claimant is working as a driver of the lorry and earning Rs.6,000/- per month as salary. The said fact was also supported by the evidence of P.W.2 who is the owner of the said lorry. Further, according to the age of the claimant, the correct multiplier to be applied is '16' since the age of the claimant at the time of accident was 31. Hence, the loss of income in respect of the disability comes to Rs.2,30,400/- (Rs.6000 x 12 x 20/100).

10. So far as the compensation granted under the other heads is concerned, this Court is of the view that it does not need any interference by this Court.

11. Except the above modification, the compensation awarded by the Tribunal under all other heads shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.4,94,829/- under various heads as follows:

| Sl.No. | Name of Head                | Awarded by Tribunal | Awarded by this Court |
|--------|-----------------------------|---------------------|-----------------------|
| 01.    | Pain and suffering          | Rs. 50,000/-        | Rs. 50,000/-          |
| 02.    | Medical expenditure         | Rs.1,44,429/-       | Rs.1,44,429/-         |
| 03.    | Disability                  | Rs. 20,000/-        | Rs.2,30,400/-         |
| 04.    | Extra nourishment           | Rs. 20,000/-        | Rs. 20,000/-          |
| 05.    | Loss of income for bed rest | Rs. 10,000/-        | Rs. 10,000/-          |
| 06.    | Future operation charges    | Rs. 40,000/-        | Rs. 40,000/-          |
| Total  |                             | Rs.2,84,429/-       | Rs.4,94,829/-         |

12. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.2,84,429/- to Rs.4,94,829/- (Rupees Four Lakhs Ninety Four Thousand Eight Hundred and Twenty Nine only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The appellant/claimant is directed to pay Court Fee for the enhanced amount of compensation. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw the entire amount. No costs.

13. Miscellaneous petitions pending, if any, shall stand closed.

**JUSTICE T.AMARNATH GOUD**

Date: 06.08.2019  
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