THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.714 of 2006

JUDGMENT:

Appellant-claimant filed this appeal against the award dated 04.01.2006 passed in O.P.No.960 of 2002 by the Chairman, Principal Motor Accidents Claims Tribunal, at Nalgonda, whereby and whereunder the Tribunal awarded the total compensation of Rs.2,98,200/- along with proportionate costs and interest @ 7 ½% per annum as against the claim of Rs.5,00,000/- on account of the injuries sustained by him in the accident occurred on 11.01.2002 at Pallavi Garden, Chinthalakunta, Hyderabad.

2. Heard the learned counsel for the appellant and learned Standing Counsel for the respondent-Insurance Company.

3. The involvement of the crime vehicle i.e. car in the accident occurred on 11.01.2002 and the manner of accident are not in dispute in the case on hand. The appellant challenged the impugned award only on the quantum of compensation awarded by the Tribunal. Therefore, this Court is not inclined to probe into other details.

4. Admittedly, the appellant-claimant suffered four grievous injuries for which he was in hospital from 25.01.2002 to 12.03.2002. Thereafter, again he was admitted in hospital on 11.12.2002 and discharged on 23.12.2002 for removal of implant from the left thigh. As such, under the heads of 'medical expenses', treatment charges and extra nourishment, the Tribunal has awarded Rs.1 lakh, towards transportation charges Rs.10,000/-, towards pain and suffering, loss of expectation of life and amenities Rs.25,000/- and

Rs.1,63,200/- towards 30% disability. Thus, in all, total compensation of Rs.2,98,200/- has been awarded by the Tribunal.

5. On perusal of the impugned award, while awarding compensation towards 30% disability, the Tribunal has deducted 1/3rd from the earnings of the appellant towards personal expenses. It is well settled that in case of injuries, deduction towards personal expenses is not permissible. The deduction towards personal expenses as per the judgment of the Hon'ble Supreme Court in ***Sarla Verma vs. Delhi Transport Corporation***[1] is to be made only in case of death. Hence, 1/3rd deduction made by the Tribunal from the earnings of the claimant towards personal expenses is held to be illegal. Accordingly, the compensation granted by the Tribunal towards 30% disability of Rs.1,63,200/- is enhanced to Rs.2,44,800/-. Admittedly, the claimant was hospitalized for around 60 days on different occasions and thus for two months he lost his income. Hence, a sum of Rs.8,000/- is awarded towards loss of income for two months. That apart, the claimant is entitled for Rs.6,000/- towards attendant charges (@ Rs.100/- per day for 60 days). Further, as evident from the material on record, the injured-claimant require to undergo surgery for removal of implant from left elbow joint and surgery for left ankle joint. Therefore, it would be just and proper to award a sum of Rs.15,000/- for the same.

6. Accordingly, the appeal is partly allowed enhancing the compensation from Rs.2,98,200/- to Rs.4,08,800/- along with interest @ 7.5% per annum on the enhanced compensation amount payable by both the respondents jointly and severally. The entire

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[1] 2009 (6) SCC 121

compensation shall be deposited to the credit of the O.P. before the Tribunal, within a period of two months from the date of receipt of copy of this order. On such deposit, the appellant-claimant is entitled to withdraw the same.

Miscellaneous petitions pending in this appeal, if any, shall stand closed. No order as to costs.

T. AMARNATH GOUD, J

18.09.2019
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