

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.694 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 31.05.2005 passed in O.P.No.169 of 2002 by the Chairman, Motor Accident Claims Tribunal (II Additional District Judge), at Nizamabad (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that the petitioner/claimant was aged about 36 years by the date of the accident and that his monthly income was Rs.5,000/- per month. On 31.10.2001 he along with ten other passengers boarded the jeep bearing No.AP-1-C-4284 at Modhole for proceeding to Nizamabad and that the jeep reached the outskirts of Mittapoor Village at about 10.30 a.m. on the same date and that by then the driver of the said jeep was driving it in rash and negligent manner on the B.T. road connecting Madhole and Nizamabad, as a result of which, he lost control over the jeep and as such it dashed against a tree and fell down and that thus the accident occurred. The petitioner further contended that in the said accident, he received injuries on his right fore arm, hands, legs, back and head and that therefore, he was admitted in the Government Hospital, Nizamabad, immediately after the accident for his

treatment and that after his discharge from that hospital, he was admitted in private hospital for his further treatment and that in all he spent Rs.40,000/- for his treatment and that in addition to that he spent another sum of Rs.10,000/- for extra nourishment. Therefore, the petitioner claimed a compensation of Rs.2,00,000/- payable by both the respondents, being the owner and insurer of the offending jeep.

4. Before the Tribunal, the 1st respondent remained *ex parte*. The 2nd respondent filed written statement denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred on account of the rash and negligent driving of the jeep and basing on the evidence of P.W.2 and Ex.A-3-Wound Certificate and in the absence of x-ray film, the Tribunal has awarded compensation of Rs.2,000/- to the petitioner towards one simple injury, with interest @ 9% from the date of petition till the date of realization. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. Heard Sri Azar Sravan Kumar, learned counsel appearing for the appellant and Sri V.Venkata Rami Reddy, learned standing counsel for the 2nd respondent/insurance company. Perused the material on record.

7. Sri Azar Sravan Kumar, learned counsel appearing for the appellant, submits that the amount of compensation Rs.2,000/- awarded by the Tribunal towards one simple injury is very meager and that the Tribunal has not awarded any amount towards pain and suffering, extra nourishment, transportation and loss of earnings and prays to enhance the compensation awarded by the Tribunal.

8. Sri V.Venkata Rami Reddy, learned standing counsel for the 2nd respondent/insurance company contended that it is not a fit case for enhancement of the compensation awarded by the Tribunal since the claimant has not produced any x-ray film in proof of the injuries sustained by him and that the amount awarded by the Tribunal is just and proper and needs no enhancement and prayed to dismiss the appeal.

9. In the facts and circumstances of the case, the amount of Rs.2,000/- awarded by the Tribunal towards one simple injury is just and proper and needs no enhancement since the claimant has not filed any x-ray film in proof of the injuries sustained by him. However, since the Tribunal has not awarded any amount towards pain and suffering, extra nourishment, transportation and loss of earnings, this Court feels that it would be just and proper if an amount of Rs.10,000/- is awarded to the appellant towards the same. Except the said modification, the rest of the award passed by the Tribunal

remains the same. Therefore, the total compensation under various heads comes as under:

Sl.No.	Name of Head	Awarded by the Tribunal	Awarded by this Court
01.	One simple injury	Rs.2,000/-	Rs.2,000/-
02.	Pain and suffering, Extra nourishment, Transportation and Loss of earnings	-	Rs.10,000/-
TOTAL		Rs.2,000/-	Rs.12,000/-

10. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.2,000/- to Rs.12,000/- payable by the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the entire amount. There shall be no order as to costs.

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

T.AMARNATH GOUD, J

Date: 25th September, 2019

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