

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.530 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 20.12.2010 passed in O.P.No.246 of 2008 by the Motor Accidents Claims Tribunal-cum-IV Additional District and Sessions Judge (FTC), Mahabubnagar (for short, the Tribunal).

2. The brief facts of the case are that on 21.02.2008 at about 11.15 pm., while the appellant was traveling in RTC bus bearing No.AP11Z 3685 to go to Belluguppa of Ananthapur District, and when the bus reached IBP Petrol Pump in the limits of Sheripally village, the driver of the RTC bus drove it in a rash and negligent manner at high speed and dashed against a bore well lorry bearing No.AP29AB 0051. In the said accident, the appellant sustained multiple injuries and also fracture to his leg. He filed aforesaid OP against respondents Nos.1 and 2, owner and insurer of lorry, and respondent No.3, RTC, claiming compensation of Rs.1,50,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent No.2 filed counter stating that the accident occurred due to rash and negligent driving of the RTC bus and hence it is not liable to pay any compensation. Respondent No.3-RTC, filed counter stating that the accident occurred due to rash and negligent driving of the lorry and hence it is not liable to pay any compensation.

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 drivers both the lorry and RTC and awarded compensation of Rs.73,000/- with interest @ 7.5% per annum, i.e., Rs.30,000/- towards pain and suffering, Rs.15,000/- towards medical expenses, Rs.10,000/- towards extra nourishment and Rs.18,000/- towards loss of earnings. The Tribunal directed respondent Nos.1 and 2 to pay a sum of Rs.36,500/- jointly and severally and respondent No.3 to pay Rs.36,500/-. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. A perusal of the record, it reveals that P.W.2, the doctor who treated the appellant, stated that the appellant was in-patient for 20 days due to the accident and also underwent surgery to his right leg and he was bedridden for a considerable period. He also stated that the appellant is required to undergo second surgery. Considering the same, the Tribunal granted a sum of Rs.26,000/- for fracture injury and Rs.4,000/- for two simple injuries, but did not grant any amount towards second surgery. Therefore, I am inclined to grant Rs.15,000/- towards second surgery. In view of the grievous injuries, I am inclined to enhance the amount of Rs.10,000/- granted by the Tribunal towards extra nourishment and transportation charges to Rs.20,000/-. The Tribunal, by

taking the loss of earnings of the appellant for a period of six months, granted Rs.18,000/-. Since the appellant underwent one surgery and was required to undergo another surgery, and since his partial temporary disability was assessed at 20% by P.W.2, the doctor who is also a member of medical board, the same would definitely affect his business activity for more than six months. Hence, I am inclined to take loss of earnings of the appellant for a period of two years @ Rs.3,000/- per month, which comes to Rs.72,000/-. The total compensation is as under:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Pain and suffering	Rs.30,000/-	Rs.30,000/-
02.	Second surgery	---	Rs.15,000/-
03.	Medical expenses	Rs.15,000/-	Rs.15,000/-
04.	Extra nourishment and transportation charges	Rs.10,000/-	Rs.20,000/-
05.	Loss of earnings	Rs.18,000/-	Rs.72,000/-
TOTAL		Rs.73,000/-	Rs.1,52,000/-

7. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.73,000/- to Rs.1,52,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. As the claimant claimed only Rs.1,50,000/-, he is directed to deposit deficit Court fee before the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 04.07.2019
TJMR