

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A. No.24 OF 2004

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 06.11.2003 passed in O.P.No.99 of 2000 by the Motor Vehicles Accidents Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad (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 was aged 22 years and was a student by the date of filing of the petition. On 26.09.1999 at about 6.20 a.m. while he was proceeding on the Yamaha Motorcycle bearing No.AP 10D 5282 as pillion rider, to his friend V.Ramachandra Goud, to go to Shiridi from Sikshaknagar, Paud Road to Swargate, Pune and when the motorcycle reached near Krishna General Hospital, Prudent Society Gate, Pune, one Maruthi car bearing No.MH 12YA 8131 coming from opposite direction in high speed and in rash and negligent manner and on extreme right side of the road, dashed the said motorcycle, due to which the petitioner and V.Ramachander Goud fell down and sustained grievous multiple injuries and they both were shifted to Krishna General Hospital, Pune, for treatment. Due to the impact of the

accident, the petitioner was thrown to a little distance and he sustained grievous head injury i.e., fracture of skull in right temporal region, blood got clotted in many parts of his brain and he sustained multiple injuries all over his body. He was shifted to Krishna General Hospital, Pune, Medical Foundation, Ruby Hall Clinic Hospital, Pune, where Dr.Ashok Bhanage, a Neuro-Surgeon has performed one surgery in brain and made burhole. The petitioner has undergone treatment in that hospital as inpatient from 26.09.1999 to 07.10.1999 and again from 16.10.1999 to 10.10.1999. He incurred an amount of Rs.1,48,000/- towards medical expenses, by the date of the petition. Hence, the petitioner filed the claim petition claiming compensation of Rs.4,00,000/-, payable by both the respondents, being the owner-cum-driver and insurer of the offending car.

3. Before the Tribunal, the 1st respondent remained *ex parte*. The respondent No.2 filed a 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 evidence of P.Ws.1 to 3 and the documentary evidence of Exs.A-1 to A-26 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the offending car and awarded total compensation of Rs.1,89,117/- i.e., Rs.1,00,000/- towards medical expenses, Rs.10,117/- towards

motorcycle repair expenses, Rs.4,000/- towards transportation charges, Rs.25,000/- towards loss of academic year and other expenses and Rs.50,000/- towards pain & suffering, with interest @ 9% per annum from the date of petition till the date of realization, payable by both the respondents. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard Sri P.Sriharsha Reddy, learned counsel appearing for the appellant and Sri K.Kishore Kumar Reddy, learned standing counsel appearing for the 2nd respondent/insurance company. Perused the material record.

6. Learned counsel for the petitioner contends that the compensation amount awarded by the Tribunal is very meager, since the Tribunal has not granted any amount towards attendant charges, loss of amenities, extra nourishment, loss of future earnings and future discomfort and prayed to allow the appeal.

7. Learned counsel for the appellant also relied on a decision reported in **Govind Yadav v. New India Assurance Co. Ltd.**¹ to award just compensation.

8. In the facts and circumstances of the case and the submissions made by the learned counsel for the appellant and basing on the above judgment, this Court feels that it would be

¹ 2012 ACJ 28

just and appropriate to enhance the compensation under various heads as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Medical expenses	Rs.1,00,000/-	Rs.1,48,000/-
02.	Motorcycle repair expenses	Rs.10,117/-	Rs.10,117/-
03.	Transportation charges	Rs.4,000/-	Rs.4,000/-
04.	Loss of academic year & other expenses	Rs.25,000/-	Rs.1,20,000/- (Rs.10,000/- per month x 12 months)
05.	Pain & suffering	Rs.50,000/-	Rs.1,50,000/-
06.	Loss of amenities	-	Rs.1,50,000/-
07.	Attendant charges @ Rs.100/- per day for 6 months	-	Rs.18,000/- (Rs.100/- x 30 days x 6 months)
08.	Discomfort	-	Rs.2,00,000/-
TOTAL		Rs.1,89,117/-	Rs.6,50,117/-

7. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.1,89,117/- to Rs.6,50,117/- payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. As the claimant claimed only Rs.4,00,000/-, he is directed to deposit deficit Court fee before the Tribunal. 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, subject to payment of deficit court fee. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 8th November, 2019

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