

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1227 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 15.02.2006 passed in O.P.No.1327 of 2001 by the Chairman, Motor Accidents Claims Tribunal (V 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 is aged about 30 years and business woman by occupation. She is resident of Barkatpura locality of Nizamabad town. She was earning Rs.5,000/- per month from her above said avocation. While so, on 17.04.2001 she along with one Syed Aleem, Syed Moulana, driver and cleaner of the jeep, one B.Srinivas, Thoti Narayana, Syed Rafeeq, Beerelli Narayana Rao, Smt. Malan Begum and Sayineni Anitha, were traveling in the crime jeep bearing No.MZV 1540 to go to Naleshwer Village from Navipet. When the crime jeep reached near sivar of Naleshwar Village, its driver has driven it in a rash and negligent manner with high speed and dashed against the tree on the right side of the road, as such the crime jeep turned turtle. She and other inmates of the jeep fell down and sustained several injuries.

She particularly sustained fracture injuries on her right leg both bones and fracture of left clavicle and also other injuries on her head, legs, hands, back and other parts of the body. Immediately, she was shifted to Government Head Quarters Hospital, Nizamabad, for treatment. Thereafter, she was shifted to private hospital for further treatment. She incurred Rs.40,000/- towards medical expenditure. Due to injuries sustained in the accident, she got permanent disability and lost her amenities, pleasure of life as well as future income. Therefore, the petitioner filed the claim petition claiming compensation of Rs.2,00,000/- with interest @ 24% per annum, payable by both the respondents, being the owner and insurer of the crime vehicle.

4 Before the Tribunal, both the respondents filed separate written statements 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 evidence of P.W.1 and the documentary evidence of Exs.A-1 to A-5 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the crime vehicle and basing on the judgment of the Apex Court in a decision reported in **Tamilnadu Transport Corporation Ltd. V. S.Rajapriya and others**¹, and awarded global compensation

¹ ALT 2005(4) ALT 14 (SC)

of Rs.22,000/- with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of realization, payable by respondents 1 to 3. 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 for the appellant and Sri N.J.Sunil Kumar, learned standing counsel for the 2nd respondent/insurance company. Perused the material record.

7. Admittedly, the petitioner incurred two fracture injuries in the above said accident i.e., fracture on her right leg both bones and fracture of left clavicle and in the light of the evidence of P.W.1 and exhibits marked, the Tribunal has awarded a global compensation of Rs.22,000/-, which is very meager. Therefore, this Court feels that it would be just and appropriate if an amount of Rs.15,000/- each is awarded towards two fracture injuries. Accordingly, the total compensation comes to Rs.30,000/- (Rs.15,000/- + Rs.15,000/-). Except the said enhancement, rest of the award remains un-changed.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.22,000/- to Rs.30,000/-, payable by both the respondents jointly and

severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till the date of 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: 21st November, 2019

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