

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2326 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 03.05.2006 passed in O.P.No.423 of 2003 by the Chairman, Motor Accidents Claims Tribunal (III District Judge) (F.T.C.), at Nalgonda (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 on 12.02.2003 at about 9.30 a.m., while the petitioner along with one Anugu Narsi Reddy were proceeding on a Hero Honda Splendor Motor Cycle bearing No.AP-24-E-3389 from Vegetable market to RTC bus stand, at Chityal, when they reached near Urumadla cross roads, the lorry bearing No.AP-16-Y-1944 came in a rash and negligent manner at high speed from their behind and dashed to the motor cycle, as such, the petitioner, who was the rider of the motor cycle, sustained fracture on his right foot and crush injury on the right foot, fractures of both thighs, fracture of spinal cord and other injuries all over the body and immediately, he was shifted to Kamineni Hospital, Narkatpally, where he took treatment as inpatient for 10 days and thereafter, he was shifted to Aware Hospital at Hyderabad, took treatment from 22.02.2003 to 19.04.2003

and spent lot of amount for his treatment and medicines. Prior to the accident, the petitioner was working as LIC agent and getting income of Rs.5,000/- per month and spending the same for the maintenance of his family. Hence, the petitioner filed the claim petition claiming compensation of Rs.2,50,000/-, payable by both the respondents jointly and severally, being the owner and insurer of the offending lorry.

4 Before the Tribunal, the 1st respondent remained *ex parte*. Respondent No.2 filed counter 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.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-12, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending lorry and awarded total compensation of Rs.1,31,000/- i.e., Rs.45,000/- towards grievous injuries (Rs.15,000/- x 3 grievous injuries), Rs.6,000/- towards simple injuries (Rs.2,000/- x 3 simple injuries), Rs.70,000/- towards medical bills and Rs.10,000/- towards loss of earnings, with interest @ 7.5% per annum from the date of petition till the date of deposit, payable by both the respondents. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. Heard Smt K.Rajitha, learned counsel for the appellant and Smt I.Maamu Vani, learned standing counsel for the 2nd respondent/insurance company. Perused the material available on record.

7. Admittedly, the accident has taken place on 12.02.2003 and the claimant underwent treatment in more than one hospital and also underwent more one surgery and in support of his claim, he filed Ex.A-3-Disability Certificate issued by District Medical Board, Nalgonda District, indicating that he has suffered 20% disability. Since the said disability was not clear as to whether it is a permanent disability or partial disability, this Court feels that at least awarding loss of disability to the extent of 20% would be just and proper. This Court is not inclined to go into the issue of awarding future prospects in the light of calculating the multiplier, since there is no evidence that the claimant has no future source of income. The claimant, claiming to be an LIC Agent, has not filed any document with regard to proof of income before the Tribunal. In the absence of the same, the Tribunal has considered 1,500/- as monthly income of the claimant. Therefore, this Court is also inclined to take into consideration the same amount as monthly income of the claimant. Hence, his annual income comes to Rs.18,000/-. Since the petitioner was aged about 30 years at the time of the accident, the multiplier for the age of the deceased is '17'

as per the decision of the Apex Court reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**¹.

Hence, the compensation under the head of 'loss of disability' comes to Rs.61,200/- (Rs.18,000/- X 17 X 20%). Except the said enhancement, rest of the award remains un-changed. Therefore, the total compensation comes to Rs.1,92,200/- (Rs.1,31,000/- x Rs.61,200/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.1,31,000/- to Rs.1,92,200/- with interest @ 7.5% per annum from the date of petition till the date of realization, payable by both the respondents jointly and severally. The respondents are directed to deposit the enhanced amount 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. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 22nd November, 2019

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¹ (2009) 6 SCC 121