

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1716 OF 2008

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 02.11.2005 passed in O.P.No.482 of 2004 by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Warangal (for short, the Tribunal).

2. The brief facts of the case are that on 03.02.2002 at about 22.00 hours while the appellant was returning back to his house from Pochamma Maidan in auto rickshaw bearing No.AP 36U 9713 of the 1st respondent, it met with an accident when the driver lost control over it on applying sudden breaks while driving it in a high speed, rashly and negligently resulting in bodily injuries to the appellant. The 2nd respondent is the insurer of the offending auto. Hence, the appellant claimed an amount of Rs.3,00,000/-, payable by the respondents 1 & 2.

3. Before the Tribunal, the 1st respondent remained *ex parte* and the 2nd respondent filed its 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 evidence produced by the parties, the Tribunal granted a total compensation of Rs.51,000/- i.e., Rs.3,000/- towards transport charges, Rs.8,000/- towards medical expenses, Rs.10,000/- towards pain & suffering and Rs.30,000/- towards loss of earnings. Dissatisfied with the

quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Mr.C.A.R.Seshagiri Rao, learned counsel for the appellant, submitted that the appellant has incurred an amount of Rs.81,209/- towards medical expenses as evident from Exs.A-6, A-16 & A-17, but the Tribunal has granted only Rs.8,000/- under that head, which is very meager. The appellant underwent surgery on 18.02.2002 for the fracture injury and taken treatment in Udai Clinic Orthopaedic Centre, at Hyderabad, from 14.02.2002 to 04.03.2002 and P.W.2- Dr.Raghava Dutt Mulkutla, the orthopaedic surgeon, who treated the appellant, was examined and deposed that the fracture injury may lead to 'Arthritis' and there will be limitation of movement in the hip and the appellant may require another surgery. The Tribunal has also not granted Attendant charges to the appellant. Since the appellant was granted a meager amount, learned counsel for the appellant sought to enhance the compensation.

7. Mr.R.Venkat Rao, learned Standing Counsel for the 2nd respondent, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

8. In the facts and circumstances of the case and having regard to the submissions made by the learned counsel for the appellant, since the Tribunal has awarded an amount of

Rs.8,000/- towards medical expenses, which is very meager, as the appellant has incurred medical expenses to a tune of Rs.81,209/-, which is evident from Exs.A-6, A-16 & A-17, this Court feels that it would be just and appropriate to grant an amount of Rs.80,000/- towards medical expenses. As per the evidence of P.W.2, the doctor who treated the appellant, since future surgery is necessary to the appellant, an amount of Rs.20,000/- is granted to the appellant towards future surgery. The Tribunal has not awarded any amount towards Attendant charges. Since the appellant underwent surgery and there was some limitation of movement in the hip, he needed an attendant to look after him for the period of four (04) months. Therefore, this Court is inclined to grant an amount of Rs.100/- per day towards Attendant charges. Therefore, the Attendant charges for the total period comes to Rs.12,000/- (Rs.100/- x 30 days x 4 months). Since the Tribunal has granted an amount of Rs.3,000/- towards transport charges, which is very less, this Court is inclined to award an amount of Rs.10,000/- towards transport charges. Due to the accident, the appellant has suffered lot of pain and suffering and mental agony. Since the Tribunal has awarded only Rs.10,000/- towards pain and suffering, this Court is inclined to enhance the same to Rs.50,000/-. Under the head of 'loss of earnings', this Court is inclined to grant an amount of Rs.3,000/- per month for a period of four (04) months. Therefore, the total loss of earnings comes to Rs.12,000/- (Rs.3,000/- x 4 months). Therefore, the total compensation under various heads is as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Medical Expenses	Rs.8,000/-	Rs.80,000/-
02.	Future Surgery	-	Rs.20,000/-
03.	Attendant charges	-	Rs.12,000/-
04.	Transport charges	Rs.3,000/-	Rs.10,000/-
05.	Pain and Suffering	Rs.10,000/-	Rs.50,000/-
06.	Loss of earnings	Rs.30,000/-	Rs.12,000/-
TOTAL		Rs.51,000/-	Rs.1,84,000/-

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.51,000/- to Rs.1,84,000/-. The enhanced amount shall carry interest @ 7.5% per annum. No costs.

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

T.AMARNATH GOUD, J

Date: 15th July, 2019

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