

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.572 OF 2008

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 28.09.2007 passed in O.P.No.642 of 2005 by the Motor Accidents Claims Tribunal-cum-IV Additional District & Sessions Judge, Fast Track Court, Ranga Reddy District (for short, the Tribunal).

2. The brief facts of the case are that on 22.05.2005 at about 10.30 pm, while the petitioner was proceeding on his vehicle bearing No.AP 28 AA 9677 from Uppal to L.B.Nagar, and when he reached near Kamineni Hospital, one Tractor bearing No.AP 27F 609, driven by its driver, came at high speed in a rash and negligent manner and hit the vehicle of the petitioner while taking a turn to its right side and on that, he fell on ground and sustained fractures and other injuries. The appellant filed aforesaid O.P. claiming compensation of Rs.2,00,000/- against respondent Nos.1 and 2, the owner and the insurer of the aforesaid tractor, for the injuries sustained by him in the said accident.

3. Before the Tribunal, respondent No.1 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.

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 driver of respondent No.1 and awarded total compensation of Rs.76,000/- i.e., Rs.1,000/- towards transportation charges, Rs.50,000/- towards extra nourishment and medicines, Rs.10,000/- towards pain and suffering, Rs.5,000/- towards

second surgery and Rs.10,000/- towards disability due to physical inconvenience.

5. Heard.

6. In the facts and circumstances of the case, granting of amounts of Rs.5,000/- towards second surgery and Rs.10,000/- towards pain and suffering is meager, in the light of the evidence deposited by P.W.2-doctor, this Court feels just and proper to enhance the amounts under the heads of 'second surgery' and 'pain and suffering' to Rs.30,000/- each. Accordingly, the said amounts of Rs.5,000/- & Rs.10,000/- are enhanced to Rs.30,000/- each. Except the said enhancement, rest of the award remains un-changed.

7. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.76,000/- to Rs.1,21,000/-. The appellant is entitled to interest @ 7.5% per annum on enhanced compensation from the date of petition till realization, as per the decision of the Apex Court in **Rajesh and others v. Rajbir Singh and others**¹. 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: 10th June, 2019

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¹ 2013 ACJ 1403 = 2013 (4) ALT 35