

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.835 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Judgment and Decree dated 29.11.2005 passed in O.P. No.700 of 2002 by the Motor Accidents Claims Tribunal (III Additional District Judge) (Fast Track Court), Nizamabad (for short, the Tribunal) for awarding compensation of Rs.18,000/-(but in the order of the tribunal, due to typographical error, it typed as Rs.12,000/- and the same is now modified as Rs.18,000/-) though claimed of Rs.2,00,000/-.

2. The brief facts of the case are that on 19.02.2002 at about 4.30 P.M. the petitioner, a minor boy aged 12 years, was crossing the road near Aryasamaj. In the meanwhile, an auto bearing No.AP-25-T-8507 came at high speed in rash and negligent manner and dashed to the petitioner from back side. As a result, the petitioner fell down and sustained fracture to right tibia and other multiple injuries all over the body. The petitioner, represented by his father, filed aforesaid OP against respondent Nos.1 and 2, owner and insurer of the aforesaid auto, claiming compensation of Rs.2,00,000/- for the injuries sustained by him. The petitioner further claimed that earlier he was used to work and earn Rs.1,000/- per month but due to the permanent disability he lost the earnings and not in a position to contribute to his family. He incurred huge amount for the treatment, special diet and attendant charges, for recovery. The amount awarded by the tribunal is very

meager and the same is to be awarded as prayed for by considering even the other aspects and applying relevant decisions of the Apex Court.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 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 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 the auto and awarded total compensation of Rs.18,000/- (Rs.10,000/- towards fracture of right tibia, Rs.3,000/- towards other simple injury, Rs.1500/- towards medical bills, Rs.500/- towards special diet and Rs.3,000/- towards pain and suffering) with interest @ 7.5% per annum. Dissatisfied with the quantum of compensation, the injured filed the present appeal, seeking enhancement of the same.

5. Heard the learned counsel for the petitioner; Sri Srinivasa Rao Uthla, the learned counsel for the 1st respondent and the learned Standing Counsel for the 2nd respondent-Insurer who claimed that the amount awarded by the tribunal is just or even excessive and the appeal may be dismissed.

6. Admittedly, accident took place and the claimant/appellant was admitted in the hospital for treatment and same is proved by the evidence of P.W.2-Dr.Koulaiah, who treated the injured, stated that he examined the injured and found lacerated injury measuring

2x2' bone deep below the left knee and fracture of right tibia and issued Ex.A.3-wound certificate and in support of it, the prescriptions, medical bill, discharge summary and X-ray showing the fracture of right tibia were also got marked. Thus the evidence of P.W.2 clearly shows that the appellant sustained injuries and was treated.

7. In view of the above, this Court feels that the compensation awarded by the Tribunal of Rs.18,000/- is very meager and is now enhanced the same to Rs.22,000/- by enhancing the amount awarded towards simple injury of Rs.3,000/- to Rs.5,000/- and towards pain and sufferance of Rs.3,000/- to Rs.5,000/-. Except the said enhancement, the Judgment of the Tribunal remains unchanged.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.18,000/- to Rs.22,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 18.09.2019
Vvr