

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1709 of 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 26-04-2006 passed in O.P.No.538 of 2003 by the M.A.C.T.-cum-I Additional District Judge (FTC), Nizamabad (for short, the Tribunal).

2. Brief facts of the case are that the claimant filed the claim petition against the respondents claiming compensation of Rs.3.00 lakhs for the injuries sustained by him in the accident occurred on 29-12-2002 due to the rash and negligent driving of the driver of the lorry bearing No.AP 25 T 7312, driven by its driver when he is proceeding in the same vehicle as a cleaner-cum-worker from Armoor to Nizamabad.

3. In the claim petition, both respondents, who are the owner and insurer of the crime vehicle, filed their counters 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 on the part of the driver of the crime vehicle and accordingly, granted an amount of Rs.75,000/- i.e. Rs.55,000/- towards injuries; Rs.10,000/- towards treatment,

Rs.5,000/- towards medicines and Rs.5,000/- towards transportation, payable by the respondents jointly and severally, with interest at 7.5% per annum through out.

5. Dissatisfied with the quantum of compensation, the appellant/claimant filed the present appeal, seeking for enhancement of the compensation.

6. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for 2nd respondent.

7. Learned counsel for the appellant-claimant contends that the trial Court erred in awarding meager compensation of Rs.55,000/- towards injuries sustained by the claimant and also failed to appreciate the evidence adduced by the claimant regarding grievous nature of the injuries and loss of income during the period of treatment. Hence, he prayed for fair compensation.

8. As seen from the material available on record, the Tribunal ought to have granted more compensation towards injuries sustained by the claimant. Admittedly, the claimant suffered five grievous fractures which are non-surgical injuries and one simple injury, in all, six injuries, to which, the Tribunal awarded a sum of Rs.55,000/-. In my considered view, granting Rs.15,000/- each to the five grievous non-surgical injuries and Rs.2,000/- towards one simple injury, totaling Rs.77,000/- instead of Rs.55,000/- is just and proper.

9. Moreover, the claimant has under went treatment and bed rest, for this period, he can be granted Rs.8,000/- towards loss of income for a period of two months.

10. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.1,05,000/- i.e. Rs.77,000/- towards injuries; Rs.10,000/- towards treatment; Rs.5,000/- towards medicines, Rs.5,000/- towards transportation and Rs.8,000/- towards loss of income.

11. In the result, the appeal is allowed in part by enhancing the compensation awarded by the trial Court from Rs.75,000/- to Rs.1,03,000/- (Rupees One Lakh and Three Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is permitted to withdraw the entire amount. No costs.

12. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 06.11.2019
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