

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**M.A.C.M.A. No.1277 OF 2008**

**JUDGMENT:**

This appeal is filed by the appellant-claimant aggrieved by the Judgment and Decree dated 25.01.2008 passed in O.P.No.937 of 2006 by the Chairman, Motor Accident Claims Tribunal-cum- XXII Additional Chief Judge, City Criminal Court, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that on 07.05.2006 at about 4.30 P.M., while the claimant was going on a scooter bearing No.AP11H 4325 as a pillion rider from Hyderabad towards Alampally, and when he reached near Himayatsagar road, opposite Swamy Narayana Gurukul, the driver of Maruti car bearing No.AP13 4555 drove the same in a rash and negligent manner and hit the scooter, due to which, the claimant fell down and sustained multiple injuries. He filed the aforesaid OP against respondent Nos.1 and 2, owner and insurer of Maruti car, respectively, claiming compensation of Rs.2,00,000/- for the injuries sustained by him.

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 car and awarded total compensation of Rs.45,000/- with interest @

6% per annum, i.e., Rs.30,000/- for two fractures, Rs.5,000/- for simple injury on the shoulder, Rs.5,000/- towards pain and suffering and Rs.5,000/- towards medical and incidental expenses. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Sri B.Venkat Reddy, learned counsel appearing for the appellant submitted that though P.W.2 Orthopedic Surgeon in Osmania General Hospital, Hyderabad, deposed that the appellant has got 30% partial permanent disability, the Tribunal has not considered the said evidence and has not awarded any compensation under that head. He further submitted that the compensation awarded under other heads also needs to be enhanced.

7. Sri V.Sambasiva Rao, learned counsel appearing for respondent No.2, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

8. The appellant has not filed any certificate issued by the competent medical board to show that he suffered 30% disability. In the absence of the same, the Tribunal has rightly rejected the claim made by the appellant. Coming to the other heads, the Tribunal awarded a meager amount of Rs.30,000/- for two fractures and therefore, the same is enhanced to Rs.40,000/-. Due to the injuries sustained by the appellant, he might not have attend to his work for at least two months and an amount of Rs.6,000/- is awarded towards loss of income for two months and an amount of

Rs.15,000/- is awarded under the head 'medical and incidental expenses'. An amount of Rs.2,000/- is awarded towards transportation charges and Rs.4,000/- is awarded towards extra nourishment. Thus, the enhanced compensation would be as under:

| <b>Sl.No.</b> | <b>Name of Head</b>             | <b>Awarded by Tribunal</b> | <b>Awarded by this Court</b> |
|---------------|---------------------------------|----------------------------|------------------------------|
| 01.           | Two fracture injuries           | 30,000-00                  | 40,000-00                    |
| 02.           | One simple injury               | 5,000-00                   | 5,000-00                     |
| 03.           | Pain and suffering              | 5,000-00                   | 5,000-00                     |
| 04.           | Medical and incidental expenses | 5,000-00                   | 15,000-00                    |
| 05.           | Loss of earnings                | --                         | 6,000-00                     |
| 06.           | Transportation charges          | --                         | 2,000-00                     |
| 07.           | Extra nourishment               | --                         | 4,000-00                     |
|               | <b>Total</b>                    | <b>Rs.45,000-00</b>        | <b>77,000-00</b>             |

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.45,000/- to Rs.77,000/-. 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: 05.08.2019

Shr