

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3623 of 2005

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 10-01-2005 passed in O.P.No.845 of 2001 by the MACT –cum- V Additional Chief Judge, City Civil Court, Hyderabad (for short, the Tribunal).

2. Brief facts of the case are that on 11-02-2001 while the claimant was driving a mini lorry bearing No.AP 10 T 6436, a lorry bearing No. AP 9 V 7200 driven by its driver in a rash and negligent manner came in opposite direction and dashed against the mini lorry, due to which, he sustained injuries and his mini lorry was also badly damaged. Hence, he filed the claim petition claiming compensation of Rs.2.00 lakhs against the respondents who are the owner and insurer of the crime vehicle.

3. In the claim petition, the 2nd respondent-insurer 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 trial Court 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 only. So far as granting of compensation is

concerned, the trial Court granted an amount of Rs.90,000/- i.e. Rs.30,000/- towards pain and suffering; Rs.40,000/- towards extra nourishment and medicines; Rs.2,000/- towards transportation and Rs.18,000/- towards loss of earnings. Accordingly, it partly allowed the claim petition granting compensation of Rs.90,000/- with interest at 9% 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.

7. Learned counsel for the appellant-claimant contends that the claimant is working as a driver in mini lorry and earning Rs.3,000/- per month; he underwent three operations for the fractures of right leg and spent more than Rs.1.00 lakh; and the discharge card issued by the hospital authorities concerned shows the said fact. He further contends that the claimant was bed ridden for a period of two months in the hospital and one month after discharging from the hospital. Hence, he prayed for compensation towards loss of income, surgical fractures and attendant charges.

8. Learned Standing Counsel for the respondent-insurer contends that the fractures sustained by the claimant were already healed and therefore no compensation can be granted to that effect and he prayed to dismiss the appeal.

9. Admittedly, there are two fractures and two surgeries have been performed and also implants were also fixed in the leg of the claimant; thereafter, the same have been removed by performing another surgery; and for a period of more than two months he was admitted in the hospital and he was under the medical care for sometime thereafter. Taking into consideration the said facts, this Court feels that awarding an amount of Rs.30,000/- towards pain and suffering is meager amount and the Tribunal ought to have considered a bit more and thus, granting another Rs.15,000/- i.e. total Rs.45,000/- towards pain and suffering would be just and proper. Further, the Tribunal has not considered the bunch of medical bills under Ex.A-6 for Rs.1,10,000/- on the ground that none was examined to prove the said bills. Having gone through the same, by enhancing the compensation towards medical bills by another Rs.6,000/-, making it to Rs.46,000/-, would be reasonable. Further, the Tribunal has not considered the issue of attendant charges. Since he was hospitalized and bed ridden for a period of three months, awarding compensation @ Rs.100/- per day amounting to Rs.9,000/- towards attendant charges is just and proper. So in all, Rs.30,000/- is enhanced in addition to that of Rs.90,000/- as granted by the Tribunal.

10. Except the above modification, the compensation awarded by the Tribunal shall remain unchanged.

11. In the result, the appeal is allowed in part by enhancing the compensation awarded by the trial Court from Rs.90,000/- to

Rs.1,20,000/- (Rupees One Lakh and Twenty 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.

Date: 30.08.2019
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JUSTICE T.AMARNATH GOUD

