

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3682 OF 2005

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Judgment and Decree dated 23-09-2005 passed in O.P.No.1329 of 2000 by the Motor Accidents Claims Tribunal-cum-I Additional District Judge at Nalgonda (for short, the Tribunal).

2. The brief facts of the case are that on 18.04.2000 at about 7.00 PM., when the appellant was proceeding from Mallepally to his village in auto bearing No.AP24T 5807, and when the said auto reached near Kothabavi gate, the driver of the auto drove it with high speed, in a rash and negligent manner and turned the steering in same speed to avert the accident from the vehicle coming in opposite direction. In the said process, the appellant fell down on the road and sustained injuries. He filed aforesaid OP against respondent Nos.1 and 2, owner and insurer of auto, claiming compensation of Rs.1,50,000/- 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 accident occurred due to the rash and negligent driving of the auto and awarded compensation of Rs.45,000/- i.e., Rs.40,000/- towards loss of earnings, Rs.2,000/- towards medical expenses and Rs.3,000/- towards the injuries suffered by him, with interest @ 7.5% per annum. Dissatisfied with

the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Smt.S.K.Rajitha, learned counsel appearing for the appellant, submitted that though the Tribunal observed that the appellant suffered 50% disability to his lower limb of right leg, due to which, he cannot attend to his normal duties, it did not award any amount under the head of permanent disability. She further submitted that as per the judgment of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹, the appellant is entitled to 25% increment towards future prospects. Basing on the said submissions, the learned counsel seeks to enhance the compensation amount.

6. Smt.Satya Manjula, learned Standing Counsel for respondent No.2, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. A perusal of the record, it is seen that the appellant sustained multiple crush injuries of his lower right leg, which resulted 50% disability. Due to the said disability, the appellant may not attend his normal duties. It is not in dispute that the appellant was hospitalised for a period of 40 days in Government Hospitals in Devarakonda and Nalgonda and he undergone treatment in the said hospitals. When the Tribunal had accepted the disability suffered by the appellant at 50%, by taking into consideration the evidence of P.W.2 and Ex.A6-disability certificate, it ought to have fixed the compensation in the light of **Smt. Sarla Varma Vs. Delhi**

¹ 2017(6) ALD 170 (SC)

Transport Corporation² and hence, I am inclined to take into consideration the disability of the appellant at 50%.

8. Though the appellant did not file any documentary proof to show his income, a notional income of Rs.3,000/- is taken into consideration. Since the appellant was aged 40 years at the time of accident, the appropriate multiplier is '15'. As rightly contended by the learned counsel for the appellant, the appellant is entitled to 25% future prospects as per **Pranay Sethi's** case (supra). Hence, the compensation under the head 'permanent disability' comes to Rs.3,37,500/- {Rs.3,750/- (Rs.3,000/- + 25% future prospects) X 12 X 15 X 50%}. The other amounts granted by the Tribunal need no interference and the same are confirmed. Therefore, the total compensation comes to Rs.3,82,500/- (Rs.3,37,500/- + Rs.40,000/- + Rs.2,000/- + Rs.3,000/-).

9. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.45,000/- to Rs.3,82,500/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. The appellant is directed to deposit deficit Court fee over and above the amount claimed by him. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 29.08.2019
Shr

² 2009 (6) SCC 1211