

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3686 of 2005

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 29-09-2005 passed in O.P.No.438 of 2003 by the M.A.C.T.-cum-I Additional District Judge, Warangal (for short, the Tribunal).

2. Brief facts of the case are that on 27-11-2002 at about 4.30 pm, he boarded an auto to go to Jangaon and when the auto reached near Petrol pump, Vidhyanagar Railway Bridge, a lorry bearing No.AP-28-T-4329 came in opposite direction on wrong side, driven by its driver Gopal, in a rash and negligent manner with high speed and lost control over the same and hit the said auto, due to which, the claimant fell on the road and sustained fractures to his right intra-candylar, right remur, compound communitied fracture to right tibia, fibula etc. Hence, he filed the claim petition claiming compensation of Rs.2.00 lakh for the injuries sustained by him against the respondents.

3. In the claim petition, the 3rd 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.75,000/- i.e. Rs.35,000/- towards pain and suffering; Rs.30,000/- towards medical expenses; Rs.5,000/- towards operation and for removal of steel plates and Rs.5,000/- towards transportation. Accordingly, it partly allowed the claim petition granting compensation of Rs.75,000/- 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.

7. Learned counsel for the appellant-claimant contends that the trial Court ignored in awarding compensation towards four surgical fracture injuries; and also erred in granting Rs.30,000/- towards medical bills instead of Rs.62,000/- as the claimant produced Exs.A-7 and A-8, medical bills for Rs.51,222/- and Rs.11,335/- respectively, in support of their claim. Hence, he prayed for fair compensation.

8. Admittedly, it is a case where the claimant sustained four grievous injuries and for which surgery has been performed and that

the doctor who examined the claimant found intra condylar fracture right femur, compound comminuted fracture both bones right leg, fracture distal end of radius right side and fracture second metacarpal right side.

9. In view of the same and considering the evidence of PWs.2 and 3, this Court feels that some more compensation ought to have been awarded for the grievous fracture injuries and medical bills. Accordingly, awarding Rs.20,000/- each for the four surgical fracture injuries i.e. Rs.80,000/- and based on Exs.A-7 and A-8, an amount of Rs.62,000/- towards medical bills instead of Rs.30,000/- granted by the Tribunal is just and proper.

10. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged. Therefore, the claimant is granted total compensation of Rs.1,87,000/- (Rs.35,000/- + Rs.80,000/- + Rs.62,000/- + Rs.5,000/- + Rs.5,000/-).

11. In the result, the appeal is allowed in part by enhancing the compensation awarded by the Tribunal from Rs.75,000/- to Rs.1,87,000/- (Rupees One Lakh and Eighty Seven Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The respondents are directed to deposit the enhanced amount jointly and severally 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: 19.09.2019
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