

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3411 of 2005

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 06-09-2005 passed in O.P.No.76 of 2001 by the Motor Vehicle Accidents Claims Tribunal -cum- I Additional District Judge, Adilabad (for short, the Tribunal).

2. Brief facts of the case are that on 29-04-2000 when the claimant was discharging his duties as road contract labourer by the side of N.H.7 road near Forest Check post of Ranapur village, a lorry bearing No.MP 06-E-1622 came from Adilabad side in a rash and negligent manner driven by its driver and dashed to an RTC bus bearing No.AP.10-Z-5326 and fell down on the petitioner and two other labourers, due to which, the claimant sustained crush injury to his left leg and other parts of the body. Hence, he filed the claim petition claiming compensation of Rs.3.50 lakhs for the injuries sustained by him against the respondent Nos.1 to 3 who are the owner, insurer of the crime vehicle and APSRTC.

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 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 only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.64,000/- i.e. Rs.54,000/- towards permanent disability and Rs.10,000/- towards sole grievous injury. Accordingly, it partly allowed the claim petition granting compensation of Rs.64,000/- 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 and the learned Standing Counsel for the 2nd respondent-insurer.

7. Learned counsel for the appellant-claimant contends that the Tribunal erred in awarding meager compensation of Rs.54,000/- by taking percentage of disability at 1/4th and monthly income at Rs.1000/- per month. He further contends that the Tribunal also did not consider in a right manner while awarding compensations under the head of injuries and also ignored in awarding compensation under the additional heads like medical bills and pain and suffering. Therefore, the claimant is entitled for fair compensation.

8. Sri R.Venkat Rao, learned Standing Counsel for the 2nd respondent, contends that the Tribunal awarded compensation in a just and proper manner and he supported the order passed by the Tribunal.

9. As seen from the order of the Tribunal, the Tribunal has taken monthly income of the claimant as Rs.1,000/- per month. Further, it came to the conclusion for taking disability of 1/4th and finally fixed the monthly income at Rs.250/- only which is also not justifiable. Admittedly, there is no dispute with regard to the claimant working as contract labourer and earning Rs.4,000/- per month as shown in Ex.A-5, salary certificate. As per the decision of the Supreme Court in **Ramchandruppa Vs. Manager, Royal Sundaram Aliance Insurance Co. Ltd.**¹, wherein, the Supreme Court held that in case of labourer, minimum wages can be taken as Rs.150/- per day. Hence, fixing an amount of Rs.4,000/- per month i.e. Rs.48,000/- per annum as notional income of the claimant is reasonable.

10. Considering the severity of the grievous injury to his left leg, the disability can be taken at 50% as per the decision of this Court in **Syed Saleem Vs. Abdul Shukur and another**². So after deducting the remaining amount, his income comes to Rs.24000/- (i.e.48000 (-) 24,000) per annum.

11. In spite of that, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**³, he is entitled to be granted future prospects at 40%. Then his annual income comes to Rs.33,600/- (24000 + 9600);

12. Further, the Tribunal has wrongly taken multiplier '18' since according to the age of the claimant i.e. 28 years, the correct multiplier is

¹ 2011 (6) ALD 75 (SC)

² 2007 (1) ALD 382

³ 2017 (6) 170 (SC)

‘17’. Hence, the loss of income in respect of the disability comes to Rs.5,71,200/- (Rs.33,600/- x 17).

13. Further, since there is no discussion in the order of Tribunal regarding medical bills, this Court feels that awarding Rs.10,000/- under the head of medical bills and Rs.10,000/- towards pain and suffering is just and proper. Further, since the claimant’s leg is amputated and the same is to be affixed with artificial limb, an additional amount of Rs.15,000/- can be granted towards the head of grievous injury i.e. Rs.25,000/- instead of Rs.10,000/- as granted by the Tribunal. Hence, the total compensation comes to Rs.6,16,200/- (which is rounded off to Rs.6,16,000/-).

14. With the above observations, the total enhanced compensation under various heads is as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Permanent disability	Rs.54,000/-	Rs.5,71,200/-
02.	Grievous injury	Rs.10,000/-	Rs.25,000/-
03.	Medical Bills	Nil	Rs.10,000/-
04.	Pain and Suffering	Nil	Rs.10,000/-
Total		Rs.64,000/-	Rs.6,16,200/- (6,16,000/-)

15. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.64,000/- to Rs.6,16,000/- (Rupees Six Lakhs and Sixteen Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The appellant/claimant is directed to pay Court Fee for the enhanced amount of compensation. The respondent Nos.1 and 2 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.

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

JUSTICE T.AMARNATH GOUD

Date: 26.09.2019

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