

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1830 of 2005

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 03-12-2003 passed in O.P.No.457 of 2003 by the Motor Vehicle Accidents Claims Tribunal-cum-III Additional District Judge, Karimnagar (for short, the Tribunal).

2. Brief facts of the case are that on 30-04-2001 at about 10.00 pm, when the claimant along with others was proceeding in a tractor to go to Kondagattu to have darshan of Lord Anjaneyaswamy and when they reached near Bhupathipur village, one RTC bus bearing No.AP-9Z-8923 driven by its driver in a rash and negligent manner at a high speed and dashed their tractor and due to which, the claimant and others fell down and the claimant sustained grievous injuries. Hence, the claimant filed the claim petition claiming compensation of Rs.4.00 lakhs against the respondent Nos.1 and 2-RTC by contending that he is working as a Coal Filler in M/s.Singareni Collieries Limited, Mandamarri and earning income of Rs.11,000/- per month.

3. In the claim petition, the 2nd respondent-RTC 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.1,78,000/- i.e. Rs.48,000/- towards pain and suffering; Rs.10,000/- towards medical expenses; Rs.20,000/- towards disability; Rs.1,00,000/- towards loss of income. Accordingly, it partly allowed the claim petition granting compensation of Rs.1,78,000/- 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 and the learned Standing Counsel for the 2nd respondent-RTC.

7. Learned counsel for the appellant-claimant contends that the Tribunal erred while awarding meager compensation of Rs.1,00,000/- towards loss of income by taking monthly income at Rs.6000/- instead of Rs.11,000/- per month. He further contends that Tribunal also erred in granting consolidated amount of Rs.20,000/- towards disability without following the principle laid down by the Apex Court. Further, the Tribunal also ignored in granting future prospects as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**¹.

¹ 2017 (6) 170 (SC)

Further, the Tribunal ought to have applied multiplier at 15 for the age of the claimant i.e. 40 years as per the decision of the Supreme Court in **Smt. Sarla Varma v. Delhi Transport Corporation**². Therefore, the claimant is entitled for fair compensation.

8. Sri Somanchi Venkateswarlu, 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 granted an amount of Rs.20,000/- towards disability. It cannot be understood how it granted fixed amount towards the head of disability since according to the decision of the Apex Court and also the decision of this Court in **Syed Saleem v. Abdul Shukur and another**³, fixation of compensation under this head is based on the monthly income, applicable future prospects and multiplier etc. Therefore, coming to that computation, the Tribunal has taken monthly income of the claimant at Rs.6,000/- per month. As seen from the oral and documentary evidence, his income can be taken at Rs.11,000/- per month as there is no dispute that he is working as a Coal Filler in M/s.Singareni Collieries Limited and he produced sufficient proof of income to that effect.

10. In spite of that, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**⁴, he is entitled to

² (2009) 6 S.C.C. 121

³ 2007 (1) ALD 382

⁴ 2017 (6) 170 (SC)

be granted future prospects at 30%. Then his monthly income comes to Rs.14,300/- (11000 +3300) i.e. Rs.1,37,280/- per annum.

11. Considering the nature of the injuries sustained by the claimant, the disability can be taken at 20% as taken by the Tribunal, following the decision of this Court in **Syed Saleem** (4 supra). So after deducting the remaining amount, his income comes to Rs.2860/- per month (i.e. 20% of Rs.14,300/-) and it comes to Rs.34,320/- per annum.

12. Further, Tribunal has to apply the multiplier '15' according to the age of the claimant ie. 40 years. Hence, the total compensation to be awarded towards disability is Rs.5,14,800/- (Rs.14,300 x 15).

13. Further, as contended by the claimant, the Tribunal granted compensation of Rs.1,00,000/- towards loss of income since it has taken monthly income @ Rs.6,000/- for a period of 20 months. Hence, the same is to be enhanced by taking monthly income @ Rs.11,000/- and then the total loss of income comes to Rs.2,20,000/- under this head.

14. Except the above modification, the compensation awarded by the Tribunal under all other heads shall remain unchanged. Hence, the total compensation awarded to the claimant under various heads is as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Pain and suffering	Rs. 48,000/-	Rs. 48,000/-
02.	Medical expenditure	Rs. 10,000/-	Rs. 10,000/-
03.	Disability	Rs. 20,000/-	Rs.5,14,800/-
04.	Loss of income	Rs.1,00,000/-	Rs.2,20,000/-
Total		Rs.1,78,000/-	Rs.7,92,800/-

15. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.1,78,000/- to Rs.7,92,800/- (Rupees Seven Lakhs Ninety Two Thousand and Eight Hundred only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The appellant/claimant is directed to pay deficit Court Fee. 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.

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

JUSTICE T.AMARNATH GOUD

Date: 11.09.2019
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