

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.236 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 24.01.2007 passed in O.P.No.867 of 2003 by the Motor Accident Claims Tribunal (II Additional District Judge) (Fast Track Court), Nizamabad (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that on 14.06.2003 at 8.20 a.m., the petitioner along with others were traveling in an auto bearing No.AP-25-U-3626 from Jagiryal village to Bheemgal. When the said auto reached in the limits of Bheemgal Village, a motor cycle bearing No.AP-25-H-1430 driven by its rider in a rash and negligent manner at high speed came in opposite direction and dashed the auto, due to which the auto turned turtle and the petitioner and other inmates of the auto sustained injuries. The petitioner sustained fracture of right leg, fracture of right tibia, fracture of right clavicle, fracture of neck of the scapula, fracture of 2nd, 3rd and 4th ribs and injuries to back, fore head, chest, hands and other parts of the body. Immediately, the petitioner was shifted to Nizamabad and was admitted in

Deepa Orthopedic Hospital, Nizamabad, for treatment. Prior to the accident, the petitioner was doing agriculture and vegetable business and was earning Rs.10,000/-. Due to the injuries received in the accident, the petitioner was unable to do agriculture, vegetable business and sustained permanent disability and earnings of the petitioner were affected. Hence, the petitioner filed the claim petition claiming compensation of Rs.5,00,000/-, payable by respondents 1 to 4, respondents 1 & 2 being the owner and insurer of the motor cycle bearing No.AP-25-H-1430 and respondents 3 & 4 being the owner and insurer of the auto bearing No.AP-25-U-3626.

4 Before the Tribunal, Respondent Nos.1, 2 & 4 filed separate counters denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-10 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the rider of the motorcycle bearing No.AP-25-H-1430 and awarded total compensation of Rs.65,000/- i.e., Rs.40,000/- towards pain and suffering, Rs.15,300/- towards treatment, Rs.8,158/- towards medicines and Rs.1,550/- towards extra nourishment and transportation, rounding off the same to Rs.65,000/-, with interest @ 7.5% per annum from the date

of petition till the date of realization, payable by respondents 1 & 2 and the petition against respondents 3 & 4 is dismissed. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. Heard both sides. Perused the material record.

7. Admittedly, as per Ex.A-3-Wound Certificate and as per the evidence of P.W.2, the petitioner has sustained four fracture injuries, i.e., three simple fractures and one grievous fracture on the chest leading to fracture of 2nd, 3rd & 4th right side ribs. Hence, this Court feels that awarding of Rs.15,000/- for each fracture i.e., Rs.60,000/- for all the four fractures (Rs.15,000/- x 4 fractures) is just and appropriate. Except the said enhancement, rest of the award remains unchanged. Therefore, the total compensation comes to Rs.1,25,000/- (Rs.65,000/- + Rs.60,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.65,000/- to Rs.1,25,000/-, payable by respondents 1 & 2 jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. The respondents 1 & 2 are directed to deposit the enhanced amount along with proportionate costs and interest within

two (02) months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the entire amount. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

T.AMARNATH GOUD, J

Date: 19th December, 2019

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