

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 1060 OF 2006

JUDGMENT:

This appeal is directed against the order and decree dated 12.01.2006 passed by the Motor Accidents Claims Tribunal-cum-District Judge, Karimnagar (for short 'the Tribunal'), in O.P.No.96 of 2003, whereby the Tribunal awarded compensation of Rs.81,759/- on account of the injuries caused in a motor vehicle accident that occurred on 08.10.2002 against the claim of Rs.9,00,000/-.

2. For the sake of convenience, the parties herein are referred to as arrayed in the Court below.

3. Being dissatisfied with the quantum of Award passed by the Tribunal, the injured filed this appeal seeking enhancement of compensation.

4. The brief facts of the case are hereunder:

The petitioner was working as a General Mazdoor in Singareni Collieries Company Limited and earning Rs.70,000/- per annum having eight more years service by the time of accident. On 08.10.2002 the petitioner was traveling in the jeep bearing No. AP 1U 4980 from Mancherla to Chennur at Jaipur Village near a nursery, a van bearing registration No.AP 1U 1551 belonging to the 2nd respondent, insured with the 3rd respondent and driven by the 1st respondent, came in opposite direction in a rash and negligent manner and hit the jeep on its side causing injuries to the

petitioner and other inmates of the jeep. When the petitioner sustained grievous injuries, he was shifted to Government Hospital, Mancherla and therefrom to NIMS, Hyderabad, where he underwent treatment from 10.10.2002 to 26.10.2002 and was operated and that needs further treatment. The petitioner sustained permanent disability. On account of the injuries, the petitioner could not attend his duty since three months from the date of accident and that he further required seven more months for treatment.

5. In order to prove the case of the petitioner, he himself examined as PW.1, The doctor, who treated the petitioner was examined as PW.2, The Dy. Superintending Engineer, Singareni Collieries Co.Ltd was examined as PW.3 and the doctor, who issued disability certificate was examined as PW.4 and marked Exs.A.1 to A12 and Ex.X.1. Ex.B.1 copy of insurance policy was marked. No oral evidence is adduced on behalf of the respondents.

6. Learned counsel for the claimant contended that the tribunal failed to award just compensation declining the evidence of PWs.2 and 4, doctors, who treated the petitioner and issued Ex.A.12-disability certificate.

7. Learned standing counsel for the insurance company opposed the claim of the petitioner and also contended that the award passed by the tribunal is well considered and needs no interference of this Court.

8. There is no dispute with regard to the manner of accident and involvement of the vehicle. In the light of the evidence, the tribunal has considered Rs.46,519/- towards medical expenditure, Rs.20,240/- towards loss of earnings for three months i.e. October, November and December, 2002, Rs.10,000/- towards pain and suffering, Rs.3,000/- towards transport and Rs.2,000/- towards extra-nourishment. As per the evidence of PW.2-doctor, who treated the petitioner initially assessed the disability at 25%. After prolonged treatment PW.4-Orthopaedic Surgeon of Government Hospital, Karimnagar, opened that the petitioner sustained 40% disability and issued Ex.A.12-disability certificate. Since the disability is not identified immediately after the surgery or treatment, but after few months the disability was assessed at 40% as per evidence of PW.4 and Ex.A.12-disability certificate, the disability can be considered as 40%. In view of Ex.X.1 and evidence of PW.3, the salary of the petitioner is Rs.7,345/- per month. Since the petitioner is aged 51 years, as per the decision of the Apex Court in **Sarala Verma and others v Delhi Transport Corporation and another**¹, the relevant multiplier applicable is '11'. As per the decision of the Apex Court in **National Insurance Company Limited v Pranay Sethi**², the petitioner is entitled for 15% future prospects since he is having permanent job. In all other aspects, the award passed by the tribunal holds good. The annual income of the deceased is Rs.88,140/- (7,345/- x 12). 40% disability of the petitioners comes

¹ 2009 ACJ 1298

² 2017(6) 170 (SC)

to Rs.3,87,816/- (Rs.88,140/- x 11 x 40%) and 15% future prospects comes to Rs. 1,45,431/- (Rs.88,140/- x 11 x 15%).

Thus, the petitioner is entitled for the following compensating.

1) 40% disability	Rs. 3,87,816/-
2) 15% future prospects	Rs. 1,45,431/-
3) Medical expenditure	Rs. 46,529/-
4) Three months loss of earnings	Rs. 20,240/-
5) Pain and suffering	Rs. 10,000/-
6) transport charges	Rs. 3,000/-
7) extra nourishment	Rs. 2,000/-

Total

Rs.6,15,016/-

Thus, the petitioner is entitled for Rs.6,15,016/-, which rounded to Rs.6,15,000/-. The enhanced compensation amount shall carry interest 7.5% per annum from the date of petition till the date of realization. The respondents 1 to 3 are directed to deposit the compensation amount jointly and severally within three months from the date of this judgment. The injured claimant is entitled to withdraw the compensation amount soon after the deposit is made.

9. In view of the above, the appeal is partly allowed to the extent indicated above. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 26.09.2019
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