

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2589 OF 2009

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Award dated 05.03.2008 passed in O.P.No.15 of 2008 by the Motor Accidents Claims Tribunal (Principal District Judge) at Nalgonda (for short, the Tribunal).

2. The brief facts of the case are that on 17.10.2006 at about 5.00 pm., while the appellant was traveling in an auto bearing No.AP24U 2710 from Mallepalli to Devarakonda, and when the auto reached at culvert No.113/2, a lorry bearing No.AP10V 1715 came in the opposite direction at high speed in a rash and negligent manner and hit the auto. In the said accident, the appellant sustained fractures and multiple grievous injuries. The appellant filed aforesaid OP against respondent Nos.1 and 2, owner and insurer of the lorry, claiming compensation of Rs.1,25,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 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 of the driver of the

lorry and awarded total compensation of Rs.49,000/- with interest @ 7.5% per annum, i.e., Rs.45,000/- towards three fractures, Rs.2,000/- towards simple injury and Rs.2,000/- towards pain and suffering. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Sri P.S.P.Suresh Kumar, learned counsel for the appellant, submits that though the appellant sustained three fractures and other injuries, the Tribunal granted meager compensation. He further submits that though the appellant filed Ex.A.4-disability certificate, to show that he suffered disability, the Tribunal did not consider the same and did not grant any amount in that regard. He further submitted that the Tribunal erroneously did not consider Ex.A.5, a bunch of medical bills, and no amount is granted. Hence, he sought to enhance the compensation.

7. Sri A.V.K.S. Prasad, learned counsel for respondent No.2, submits that though the appellant filed Ex.A.4-disability certificate, he did not examine the doctor who issued the same and hence, the Tribunal rightly did not consider the same. He further submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

8. A perusal of the record, it is clear that the Tribunal granted Rs.45,000/- for three grievous injuries. Since the three grievous injuries are fracture injuries, this Court is inclined to grant an amount of Rs.60,000/- (Rs.20,000/- X 3) for the same. The amount of Rs.2,000/- granted by the Tribunal towards one simple injury needs no interference. The Tribunal granted Rs.2,000/- towards pain and suffering, which is enhanced to Rs.10,000/-. As the appellant failed to examine the doctor who issued Ex.A.4, the Tribunal rightly did not grant any amount towards disability, which needs no interference. Coming to Ex.A.5, as the appellant suffered injuries, he might have met with medicines and hence, this Court is inclined to consider Ex.A.5 and to grant the amount of Rs.3,459/- towards medical bills. Therefore, the total compensation amount comes to Rs.75,459/-.

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.49,000/- to Rs.75,459/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 06.08.2019
TJMR