

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2321 OF 2009

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Award and Decree dated 12.03.2008 passed in O.P.No.52 of 2006 by the III Additional Chief Judge, City Civil Court, Hyderabad (for short, the trial Court).

2. The brief facts of the case are that on 23.11.2005, while the appellant was riding his motorcycle, a Tata Sumo bearing No.AP24U 8470 came in a rash and negligent manner and hit the motorcycle from backside, due to which, the appellant sustained fractures and other injuries. He filed aforesaid OP against respondents Nos.1 and 2, owner and insurer of the lorry, respectively, claiming compensation of Rs.4,00,000/- for the injuries sustained by him.

3. Before the trial Court, the respondents 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.

4. After considering the oral and documentary evidence on record, the trial Court came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the Tata Sumo and awarded total compensation of Rs.1,61,350/- (Rs.1,61,317/- was rounded off to Rs.1,61,350/-) with interest @ 7.5% per annum, i.e., Rs.90,000/- towards three

fractures, Rs.10,000/- towards pain and suffering, Rs.10,000/- towards loss of amenities, Rs.46,317/- towards medical bills, Rs.5,000/- towards nutritious food, transport and assistance. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Smt.B.Roja Ramani, learned counsel appearing for the appellant, submitted that due to the injuries, the appellant was on leave for 70 days and the trial Court did not grant any amount towards loss of income. She further submitted that the trial Court granted meager amount of Rs.5,000/- towards nutritious food, transport and assistance and the same needs to be enhanced. She further submitted that though P.W.2, the doctor who treated the appellant, stated that second surgery would cost Rs.25,000/-, the trial Court did not grant any amount under that head. She further submitted that the trial Court did not grant Rs.4,000/- spent by the appellant towards medical bills (covered by Ex.A.9) and also did not grant any amount towards four simple injuries and seeks to enhance the compensation amount.

6. Sri G.S. Prakash Rao, learned Standing Counsel for respondent No.2, submitted that the trial Court passed a well reasoned order and sought to dismiss the appeal.

7. In view of the grievous injuries sustained by the appellant, granting of Rs.10,000/- towards pain and suffering and Rs.5,000/- towards nutritious food, transport and assistant, respectively, by

the trial Court is low and the same are enhanced to Rs.20,000/- and Rs.15,000/- respectively. The appellant sustained four simple injuries, for which, this Court is inclined to grant a sum of Rs.8,000/- (Rs.2,000/- X 4 injuries). In view of the evidence of P.W.2, who stated that second surgery would cost Rs.25,000/-, this Court is inclined to grant Rs.25,000/- towards second surgery. As the appellant filed Ex.A-9 to show that he spent Rs.4,000/- towards medical expenses, the same is hereby granted. As it is stated that due to the fracture injuries, the appellant was on leave for a period of 70 days, this Court is inclined to grant loss of income for the leave period. At the time of accident, the monthly salary of the appellant was Rs.21,000/-, and hence, the loss of income comes to Rs.50,000/- (Rs.21,000/- per month X 70 days = Rs.49,000/-, but rounded off to Rs.50,000/-). The other findings of the trial Court remain unchanged. Thus, the total compensation under various heads comes as under:-

Sl.No.	Name of Head	Awarded by trial Court	Awarded by this Court
01.	Three fractures	Rs.90,000/-	Rs.90,000/-
02.	Pain and suffering	Rs.10,000/-	Rs.20,000/-
03.	Loss of amenities	Rs.10,000/-	Rs.10,000/-
04.	Hospital bills	Rs.46,317/-	Rs.46,317/-
05.	Nutritious food, transport and assistance	Rs.5,000/-	Rs.15,000/-
06.	Loss of earnings	--	Rs.50,000/-
07.	Medical bills	--	Rs.4,000/-
08.	Second surgery	--	Rs.25,000/-
09.	Four simple injuries	--	Rs.8,000/-
	Total	Rs.1,61,350/-	Rs.2,68,317/-

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the trial Court from Rs.1,61,350/- to Rs.2,68,317/-. The enhanced amount shall carry interest @ 7.5% per annum. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 16.07.2019
TJMR

