

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.350 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 06.12.2004 passed in O.P.No.1731 of 2001 by the Motor Accident Claims Tribunal (IV Additional District Judge) (FTC), 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 20.04.2001, the petitioner and two others went to attend a marriage function at Devaipalli (v) and while returning back on a cycle towards Kamareddy at about 6.00 p.m., when they reached Krishnajiwadi (v) shivar near a culvert, one Tractor bearing No.AP-25-E-8860 came from opposite direction being driven by the driver, came at high speed in rash and negligent manner and dashed against the cycle of the petitioner, due to which the petitioner fell down and sustained multiple and grievous injuries. The petitioner received fracture injuries on his both bones of right leg and injuries on head, legs, hands, back and other parts of the body. Immediately after the accident, the petitioner was shifted to Government Hospital, Kamareddy, and from there he was shifted to Gandhi

Hospital, Secunderabad, for further treatment and later on he was shifted to private hospital. The petitioner incurred an expenditure of Rs.60,000/- and he requires further more amounts for future treatment. The cycle of the petitioner also damaged completely to the tune of Rs.1,500/-. Prior to the accident, the petitioner was aged about 25 years and he was hale and healthy and working as Mestri and was earning Rs.4,000/- per month. After the accident, the petitioner is not attending to any work and he became dependent on others. Hence, the petitioner filed the claim petition claiming compensation of Rs.1,00,000/-, payable by both the respondents, being the owner and insurer of the offending tractor.

4. Before the Tribunal, the 1st respondent remained *ex parte*. Respondent No.2 filed written statement 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-8 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending tractor and awarded total compensation of Rs.42,000/- i.e., Rs.5,000/- towards one grievous injury, Rs.20,000/- towards Medical expenses, Rs.10,000/- towards

transportation and extra nourishment, Rs.6,000/- towards loss of income for a period of four (04) months @ Rs.1,500/- per month (Rs.1,500/- X 4 months) & Rs.1,000/- towards damages, with interest @ 9% per annum from the date of petition till the date of deposit, payable by both the respondents. 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, since for the fractured grievous injury, the Tribunal has awarded only Rs.5,000/-, which is very meager, this Court feels that it would be just and appropriate if an amount of Rs.10,000/- is enhanced under the head of grievous injury. With regard to loss of income for a period of four (04) months, the Tribunal has considered only Rs.1,500/- per month and awarded Rs.6,000/-, which is very meager. Therefore, this Court feels that it would be just and proper if an amount of Rs.3,000/- per month i.e., Rs.12,000/- (Rs.3,000/- x 4 months) is awarded towards loss of income. Insofar as the disability is concerned, this Court finds that the reasoning given by the Tribunal is just and proper and the claimant is not entitled for any compensation under the head of disability. Except the said enhancement, rest of the award remains un-changed.

8. Hence, the total compensation under various heads is as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Grievous injury	Rs.5,000/-	Rs.10,000/-
02.	Medical expenses	Rs.20,000/-	Rs.20,000/-
03.	Transportation and Extra Nourishment	Rs.10,000/-	Rs.10,000/-
04.	Loss of earnings	Rs.6,000/-	Rs.12,000/-
05.	Damages	Rs.1,000/-	Rs.1,000/-
TOTAL		Rs.42,000/-	Rs.53,000/-

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.42,000/- to Rs.53,000/-, payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till the date of realization. The respondents 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

KL