

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1429 of 2008

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 23-01-2008 passed in O.P.No.2699 of 2005 by the Motor Vehicle Accidents Claims Tribunal-cum-V Additional Metropolitan Sessions Judge (Mahila Court)-cum-XIX Additional Chief Judge, City Criminal Courts at Hyderabad (for short, the Tribunal).

2. Brief facts of the case are that on 18-07-2005, the claimant was riding Hero Honda motorcycle along with his wife from Madannapet towards Amberpet and when they reached near Saidabad cross roads, Electrical Sub Station, a Maruthi car bearing No.AP 09 B 3999 came in a rash and negligent manner and rammed into his vehicle, as a result, he sustained fracture injuries. He incurred more than Rs.15,000/- towards medical expenditure. Hence, he filed claim petition claiming compensation of Rs.2.00 lakhs towards the injuries sustained by him.

3. In the claim petition, the 2nd respondent-insurer 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 on the part of the driver of the crime vehicle only.

5. So far as granting of compensation is concerned, in the light of Ex.A-4, discharge summary, and based on the evidence of P.W.1, the Tribunal came to the conclusion that the claimants are entitled for compensation of Rs.27,634/- (rounded off to Rs.28,000/-) i.e. Rs.15,000/- towards pain and suffering; Rs.10,000/- towards loss of future income; Rs.1634/- towards medical expenditure and Rs.1000/- towards transportation. Accordingly, it partly allowed the claim petition granting compensation of Rs.28,000/- with interest at 7% per annum through out.

6. Dissatisfied with the quantum of compensation, the appellant/claimant filed the present appeal, seeking for enhancement of the compensation.

7. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the 2nd respondent-insurer.

8. Learned counsel for the appellant-claimant contends that the Tribunal erred in awarding meager compensation of Rs.10,000/- towards loss of future income for a period of two months' best rest by taking his monthly income at Rs.5,000/- per month. Therefore, it can be enhanced to Rs.14,000/- as the claimant is earning Rs.9,959/- per

month. Further the Tribunal ignored in granting award for the heads viz., fracture injury, simple injury and extra nourishment etc. Therefore, he seeks for fair compensation.

9. Smt. Alleni Supriya, learned Standing Counsel for the 2nd respondent, contends that the Tribunal awarded compensation in a just and proper manner and she supported the order passed by the Tribunal.

10. As seen from the impugned order, the Tribunal has taken monthly income of the claimant at Rs.5,000/- per month. Admittedly, there is no dispute with regard to the claimant working as a Technician in Tata Tele Services for Rs.2,959/- per month and also working as Site Supervisor-cum-House Planner Designer for Rs.7,000/- per month as shown in Ex.A-14. However, if any one employment is to be taken to consider his monthly income, his income can be taken at Rs.7,000/- per month. So the loss of income can be granted at Rs.14,000/- towards bed rest for a period of two months.

11. Further, as contended by the learned counsel for the claimant, the Tribunal did not grant any compensation towards extra nourishment, fracture injury and simple injury. In my view, the claimant is entitled to be granted the said compensation at Rs.4,000/-, Rs.25,000/- and Rs.3,000/- respectively. Therefore, the total compensation granted to the claimants comes to Rs.63,634/- (rounded off to Rs.64,000/-) as mentioned below. Except the above

modifications, the compensation granted by the Tribunal under other heads remains unchanged.

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Pain and suffering	Rs.15,000/-	Rs.15,000/-
02.	Loss of future income	Rs.10,000/-	Rs.14,000/-
03.	Medical expenditure	Rs. 1634/-	Rs. 1634/-
04.	Transportation	Rs. 1000/-	Rs. 1,000/-
05.	Extra nourishment	Nil	Rs. 4,000/-
06.	Fracture injury	Nil	Rs.25,000/-
07.	Simple injury	Nil	Rs. 3,000/-
Total		Rs. 28,000/-	Rs.63,634/-

12. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.28,000/- to Rs.63,634/-, which is rounded off to Rs.64,000/- (Rupees Sixty Four Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is permitted to withdraw the entire amount. No costs.

13. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 05.08.2019
kvr