

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.820 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 31.08.2005 passed in M.V.O.P.No.923 of 2001 by the Motor Accident Claims Tribunal (VII Additional District Judge) (Fast Track Court), Nizamabad at Bodhan (for short, the Tribunal).

2. The brief facts of the case are that on 06.12.2000 at about 7.30 pm., while the appellant, as the owner of the goods, was traveling in the lorry bearing No.AP25T 675, and when the lorry reached near Pasupu Vagu on Bodhan to Varni road, the driver of the lorry drove it in a rash and negligent manner and dashed against the tractor bearing No.AP25D 7426. In the said accident, the appellant sustained multiple fracture injuries. He filed aforesaid MVOP against respondent Nos.1 and 2, owner and insurer of aforesaid lorry, claiming compensation of Rs.2,00,000/- for the injuries sustained by him.

3. Before the Tribunal, both the respondents remained *ex parte*.

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.23,500/- with interest @ 9% per annum, i.e., Rs.10,000/- towards fracture injury,

Rs.10,500/- towards medical expenses and Rs.3,000/- towards pain and suffering. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. A perusal of the record reveals that in the accident, the appellant sustained fracture injury, for which, he underwent a surgery in Government Hospital, Nizamabad and he was hospitalized for a period of 11 days. Though P.W.2, the doctor who treated the appellant, deposed that the appellant suffered 30% to 35% permanent disability, no evidence was adduced to that effect. Therefore, the trial Court negatived the said aspect, which needs no interference. However, as the appellant sustained fracture injury and undergone surgical operation, this Court feels that granting of Rs.10,000/- by the Tribunal towards fracture injury is meager and the same is enhanced to Rs.20,000/-. Apart from the same, the appellant is entitled to Rs.5,000/- towards extra-nourishment and Rs.4,500/- towards loss of earnings. Except the said enhancement, the order of the Tribunal shall remain unchanged.

7. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.23,500/- to Rs.43,000/-. 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: 30.08.2019
TJMR

