

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.331 OF 2014

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the award and decree dated 14-05-2009 passed in O.P.No.561 of 2008 by the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-V Additional Metropolitan Sessions Judge-cum-Mahila Court, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that on 5.12.2007 at about 1.45 PM., while the petitioner was proceeding on his motorcycle bearing No.AP24L 4344 as pillion rider along with one Venkatesham from Vellanki village towards Ramannapet and when they reached the crossing near Railway gate, one RTC bus bearing No.AP10Z 7045 came in the opposite direction in a rash and negligent manner and dashed against the motorcycle, consequently, both of them fell on the road and the petitioner sustained fracture of both bones of left leg, fracture of left hip, fracture of left ankle and other injuries all over the body. He filed the above O.P., claiming compensation of Rs.1,50,000/- for the injuries sustained by him.

3. The respondents filed a counter denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the claimant is excessive, exorbitant, imaginary and out of proportion and therefore sought to dismiss the petition.

4. During the course of trial, the claimant examined P.Ws.1 and 2 and got marked Exs.A1 to A10. No oral or documentary evidence was adduced on behalf of the respondents.

5. After considering the material on record and the evidence adduced on behalf of the petitioner, the Tribunal allowed the O.P. in part and awarded an amount of Rs.19,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization payable by the respondents 1 and 2 jointly and severally. Being aggrieved by the quantum of compensation awarded by the Tribunal, the claimant preferred the present appeal.

6. Heard.

7. A perusal of the order reveals that the Tribunal has not appreciated the fact that though the petitioner purchased medicines and filed medical bills under Exs.A6 for an amount of Rs.61,663.87 Ps., and Ex.A8 for an amount of Rs.39,069/-, the Tribunal has not accepted the same as the medicines under Exs.A6 and A8 are other than brand prescribed by the doctor, due to non-availability of the same brand. In view of the said fact, the claim of the petitioner cannot be denied on the ground that the medicines in the bill and prescription are not tallying. Hence, the petitioner is entitled for the amount of Rs.1,00,733/- towards expenses incurred under Exs.A6 and A8. Except the above modification, the award passed by the Tribunal remains unchanged.

8. Accordingly the appeal is partly allowed to the extent indicated above. Miscellaneous petitions pending if any shall stand closed. No order as to costs.

T.AMARNATH GOUD, J

Date: 15-02-2019.
Shr

