

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 2061 OF 2006

AND

CROSS OBJECTION (SR) No.46493 of 2006

COMMON JUDGMENT:

The appeal is directed by RTC against the judgment and decree dated 21.03.2006 passed in O.P.No.357 of 2000 by the Motor Accidents Claims Tribunal-cum-IV Additional District Judge, FTC, Nizamabad (for short 'the Tribunal') awarding compensation of Rs.3,00,000/- with costs and interest at 7.5% per annum from the date of petition till the date of realization, as against the claim of Rs.3,00,000/- on account of the accident occurred on 21.07.1999 at about 05.20 PM near Narsimhaswamy Temple, Chinnapoorgandi on N.H.No.16 road, Nizamabad.

2. The claimant filed cross objection contending that the tribunal did not award any amount for serious disfiguration and disability at 45% as per Ex.A.4 and that the claimant took treatment for more than six years and underwent mental torture and that the interest granted by the tribunal is also very meager and hence, prayed to grant just compensation.

3. Before the tribunal, in order to prove the case of the claimant, PWs.1 and 2 were examined and marked Exs.A1 to A.29 and Ex.Xs.1 to X.5. No oral or documentary evidence was adduced on behalf of the respondents.

4. Learned standing counsel for RTC submitted that the compensation granted by the tribunal is on higher side and hence,

prayed to allow the appeal setting aside the award passed by the tribunal.

5. Learned counsel for the claimant contended that the compensation granted by the tribunal is very meager and hence, prayed to allow the cross objections by dismissing the appeal..

6. There was no dispute with regard to the manner of accident and involvement of the crime vehicle. A perusal of the material available on record and having regard to the facts and circumstances of the case, the award passed by the tribunal is well considered in all aspects except that the tribunal has to grant some amount for disfigurement. Therefore, a sum of Rs.25,000/- was granted towards disfigurement. Thus, the claimant is entitled for total compensation of Rs.3,25,000/- (Rs.3,00,000/- + Rs.25,000/-). The enhanced compensation amount shall carry interest @ 7.5% per annum from the date of petition till the date of realization. The respondents shall deposit compensation amount within three months from the date of judgment. The claimant is entitled to withdraw the compensation amount soon after the deposit is made. Though the claim is made for Rs.3,00,000/- in order to grant just and proper compensation for the reasons indicated above and in the light of the decision of the Apex Court in **Nagappa v Gurudayal Singh**¹ the compensation awarded can be more than the claim, the present cross objection needs to be allowed. The claimant has to pay deficit court fee on over and above the claim amount and if the deficit court fee not paid as per

¹ 2003(2) SCC 274

Rule 475 of the M.V. Rules before the Tribunal, the claimant cannot be permitted to execute for the enhanced amount.

7. In view of the above, the appeal filed by RTC is dismissed and the cross objection filed by the claimant is partly allowed. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

Date: 20-11-2019
kvrn

T.AMARNATH GOUD,J

