

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.855 of 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 20-01-2006 passed in O.P.No.741 of 2003 by the M.A.C.T. –cum- IV Additional District Judge (FTC), Nizamabad (for short, the Tribunal).

2. Brief facts of the case are that on 16-02-2003 at about 10.30 am while the claimant was proceeding to Ramadugu village from Dichpally in an auto, and when it reached near Ramadugu, the driver of that auto, drove the vehicle in a rash and negligent manner, due to which, the auto turned turtle and therefore the claimant sustained fracture to left femur, injuries to left knee, head, right shoulder and other parts of the body. Hence, he filed claim petition against the respondents who are owner and insurer of the crime vehicle claiming compensation of Rs.3.00 lakhs for 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 trial Court 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. So far as granting of compensation is concerned, the trial Court granted an amount of Rs.70,000/- i.e. Rs.20,000/- towards grievous injury; Rs.24,000/- towards pain and suffering; Rs.5,000/- towards loss of earning; and Rs.21,000/- towards medical expenditure. Accordingly, it partly allowed the claim petition granting compensation of Rs.70,000/- with interest at 7.5% per annum through out against both the respondents to pay the said amount jointly and severally.

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

6. Heard the learned counsel for both the parties.

7. Learned counsel for the claimant contends that the Tribunal erred in awarding meager compensation since the claimant has sustained multiple fractures and suffered from grievous injuries. Hence, he prayed for fair compensation.

8. Learned counsel for the insurer contends that the Tribunal ought not to have granted such compensation, however, he supported the order of the Tribunal. Hence, prayed to dismiss the appeal.

9. As seen from the order of the Tribunal, it is clear that the Tribunal rightly examined the evidence of P.Ws.1 and 2 and Exs.A-1

to A-10. In the light of Ex.A-3, the Tribunal has awarded compensation of Rs.75,000/- i.e. Rs.5,000/- towards grievous injury; Rs.1,000/- towards simple injury; Rs.35,000/- towards medical expenses; Rs.10,000/- towards pain and suffering and Rs.20,000/- towards loss of estate and Rs.4,000/- towards extra nourishment and transportation.

10. However, with regard to the awarding of Rs.5,000/- towards grievous injury, this Court feels that the same is very meager and the same is to be enhanced to Rs.15,000/-. Hence, an amount of Rs.75,000/- awarded by the Tribunal is enhanced to Rs.85,000/-.

11. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.85,000/- i.e. (Rs.15,000/- + Rs.1,000/- + Rs.35,000/- + Rs.10,000/- + Rs.20,000/- + Rs.4,000/-).

12. In the result, the appeal is allowed in part by enhancing the compensation awarded by the trial Court from Rs.75,000/- to Rs.85,000/- (Rupees Eighty Five Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The respondents are directed to deposit the enhanced amount jointly and severally 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: 30.09.2019
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