

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3723 OF 2005

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 29.06.2005 passed in O.P.No.1933 of 2001 by the Motor Vehicle Accidents Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short, Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that the petitioner and his family members went to Shirdi by a Tata Sumo car bearing No.AP 7K 2927 on 09.06.2001 at about 3.00 a.m. While returning from Shirdi, when the car reached the outskirts of Mamidipally Village on N.H.7, the driver of the car drove it with high speed and in a rash and negligent manner and colluded with a lorry bearing No.AP 9T 9595 which was proceeding ahead of the car in the same direction. As a result, the petitioner sustained grievous fracture of the skull and a fragment of bone pierced the brain. He was immediately shifted to Sai Krishna Super Speciality Neuro Hospital, Hyderabad, wherein he underwent a surgery. He was advised to take rest for a period of six months. He was also advised that even after the period of six months, he may still suffer for a considerable period of time due to the after effects of the injury and the surgery. The petitioner

is the owner of a hair dressing saloon and used to earn Rs.5,000/- per month. As he was bed-ridden, the saloon was closed and he lost income. He is the only earning member of his family. The petitioner spent huge amount for his treatment. The 1st respondent is the owner and the 2nd respondent is the insurer of the offending vehicle. Hence, the petitioner filed the O.P. claiming a compensation of Rs.2,40,000/- payable by both the respondents.

4. Before the Tribunal, the 1st respondent remained *ex parte*. The 2nd respondent filed counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the evidence produced by the parties, the Tribunal granted total compensation of Rs.82,500/-, with interest @ 6% per annum from the date of petition till realization, i.e., Rs.25,000/- towards pain & suffering, Rs.45,000/- towards medical expenses, Rs.7,500/- towards loss of income & Rs.5,000/- towards transportation & extra nourishment. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. Heard Sri V.Atchuta Ram, learned counsel appearing for the appellant and Smt. Kalpana Ekbote, learned standing counsel appearing for the 2nd respondent/insurance company. Perused the material on record.

7. Sri V.Atchuta Ram, learned counsel for the appellant submitted that the compensation amount of Rs.82,500/- granted by the Tribunal as against the claim of Rs.2,40,000/- is very meagre. Therefore, he prayed to enhance the compensation awarded by the Tribunal.

8. Smt Kalpana Ekbote, learned standing counsel appearing for the 2nd respondent/insurance company, submitted that the Tribunal passed a well reasoned order and that the amount awarded by the Tribunal is just and proper and needs no enhancement and prayed to dismiss the appeal by confirming the order passed by the Tribunal.

9. In the facts and circumstances of the case and in the light of the injuries occurred to the claimant, which are grievous in nature and since the claimant was hospitalized from 09.06.2001 to 26.06.2001 for the injuries sustained by him i.e., (i) comminuted fracture of left frontal bone with a bone fragment in left frontal lobe; (ii) fracture of glabella and frontal sinus; and (iii) pneumocephalus, and the claimant also underwent a Neuro surgery on 11.06.2001, it is a bounden duty of this Court to award just and proper compensation. Under the head of Pain & Suffering, since the Tribunal has awarded an amount of Rs.25,000/-, which is very meager, this Court feels that it is just and proper to enhance the same to Rs.50,000/-. The amount of Rs.45,000/- awarded by the Tribunal under the head of Medical Expenses remains un-changed. Towards loss of income for a

period of six months, since the Tribunal has awarded only Rs.7,500/-, this Court feels that it would be just and necessary to award an amount of Rs.4,500/- per month towards loss of income. Therefore, the total loss of income comes to Rs.27,000/- (Rs.4,500/- x 6 months). Towards Transportation & Extra Nourishment, the Tribunal has awarded a meager amount of Rs.5,000/-, but this Court feels that it would be just and necessary to enhance the same to Rs.10,000/-. Insofar as the interest is concerned, for the amount awarded by the Tribunal, interest of 6% shall continue and with regard to the enhanced amount, interest of 7.5% shall be computed. Except the said modification, the order of the Tribunal remains un-changed.

10. Therefore, the total compensation under various heads is as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Pain & Suffering	Rs.25,000/-	Rs.50,000/-
02.	Medical Expenses	Rs.45,000/-	Rs.45,000/-
03.	Loss of income	Rs.7,500/-	Rs.27,000/-
04.	Transportation & Extra Nourishment	Rs.5,000/-	Rs.10,000/-
TOTAL		Rs.82,500/-	Rs.1,32,000/-

11. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.82,500/- to Rs.1,32,000/- payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. The respondents are directed to deposit the enhanced amount along with proportionate costs

and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the entire amount. No costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

T.AMARNATH GOUD, J

Date: 16th October, 2019

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