

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2332 of 2012

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 17-02-2012 passed in M.A.T.O.P.No.298 of 2009 by the Motor Vehicle Accidents Claims Tribunal-cum-District Judge, Khammam (for short, the Tribunal).

2. Brief facts of the case are that on 17-08-2007 at about 9.15 pm the claimant was traveling in a lorry bearing No.AP-20-V-2709 from Paloncha to Manuguru, and when the lorry reached Morampalli Banjara village at 7.00 pm, the other lorry bearing No.CG-18-H-0872 coming in opposite direction in a rash and negligent manner, dashed against the claimant's lorry. As a result of which, the claimant received grievous fracture injuries on right leg. He was shifted to the hospital, Khammam and where he underwent operation and steel rods were inserted to his right leg. He took treatment as in-patient for four months and he spent Rs.1,50,000/- towards medical expenses. Hence, he filed the claim petition claiming compensation of an amount of Rs.3.00 lakhs against the respondent Nos.1 and 2, who are the owner and insurer of the crime vehicle.

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 Tribunal 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.

5. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.75,000/- i.e. Rs.15,000/- towards three grievous injuries; Rs.6,000/- towards six simple injuries; Rs.10,000/- towards pain and suffering; Rs.35,000/- towards medical expenses; Rs.4,000/- towards transportation and also Rs.5,000/- towards extra nourishment. Accordingly, it partly allowed the claim petition granting compensation of Rs.75,000/- with interest at 7.5% per annum through out.

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

7. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the 2nd respondent-insurer.

8. Learned counsel for the appellant-claimant contends that the Tribunal erred in awarding meager compensation of Rs.15,000/- towards grievous injuries sustained by the claimant since he is suffering from multiple injuries i.e. three grievous and six simple injuries and he also underwent surgery for insertion of steel rods. Further, the claimant is basically working as a driver but now he is not in a position to apply break and accelerator while driving the vehicle. He further contends that Tribunal also did not consider in a right manner while awarding

compensations under the heads of grievous injuries and extra nourishment and also ignored awarding compensation under the additional heads viz., loss of income while taking bed rest for six months, future surgery, attendant charges for one month etc. Therefore, the claimant is entitled for fair compensation.

9. Sri N.Mohan Krishna, learned Standing Counsel for the 2nd respondent, contends that the Tribunal awarded compensation in a just and proper manner and he supported the order passed by the Tribunal.

10. As seen from the order of the Tribunal, the Tribunal has taken lenient view while granting compensation for the three grievous injuries sustained by the claimant. Hence, fixing an amount of Rs.75000/- (i.e. Rs.15,000/- for each injury) instead of Rs.15,000/- is reasonable. Likewise, the Tribunal granted an amount of Rs.5,000/- only towards extra nourishment which is also a meager amount, in my view, hence the same is enhanced to Rs.10,000/-.

11. Further, as contended by the claimant, the Tribunal ignored in granting compensation towards loss of income for taking bed rest. In my view, an amount of Rs.27,000/- (i.e. Rs.4,500/- per month for a period of six months) can be awarded towards loss of income for taking bed rest as per the decision of the Supreme Court in **Ramchandrapa Vs. Manager, Royal Sundaram Aliance Insurance Co. Ltd.**¹, wherein, the Supreme court held that in case of labourer, minimum wages can be taken as Rs.150/-

¹ 2011 (6) ALD 75 (SC)

per day at least. Further, it is also justifiable to grant compensation towards attendant charges of Rs.3,000/- for a period of month and also Rs.10,000/- towards future surgery.

12. Except the above enhanced and newly granted compensation under different heads, the compensation granted by the Tribunal under the other heads remains unchanged. Hence, the total compensation under various heads is as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Three grievous injuries	Rs.15,000/-	Rs.75,000/-
02.	Six simple injuries	Rs. 6,000/-	Rs. 6,000/-
03.	Pain and suffering	Rs.10,000/-	Rs.10,000/-
04.	Medical expenses	Rs.35,000/-	Rs.35,000/-
05.	Transportation	Rs. 4,000/-	Rs. 4,000/-
06.	Bed rest for six months	Nil	Rs.27,000/-
07.	Future surgery	Nil	Rs.10,000/-
08.	Attendant charges for one month	Nil	Rs. 3,000/-
09.	Extra nourishment	Rs. 5,000/-	Rs.10,000/-
Total		Rs.75,000/-	Rs.1,80,000/-

13. In the result, appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.75,000/- to Rs.1,80,000/- (Rupees One Lakh and Eighty Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The respondents are directed to deposit the enhanced amount 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.

14. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 02.08.2019

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