

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.408 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant in O.P.No.476 of 1998 aggrieved by the common order and decree dated 14.09.2001 passed in O.P.Nos.476 of 1998 & 510 of 1998 by the Chairman, Motor Accident Claims Tribunal-cum-Additional District Judge, Adilabad (for short, the Tribunal).

2. The brief facts of the case are that the appellant and one Gaddam Rajanna, who is claimant in O.P.No.510 of 1998, at about 2.00 p.m. were traveling as borewell workers in a borewell rig/van bearing registration No.ATT 90 from Hyderabad to Siddipet. When the vehicle reached the outskirts of Thimmareddypalli Village on Rajiv Highway, the driver of the vehicle drove the rig/van in high speed and in a rash and negligent manner and lost control and as a result, the vehicle turned turtle by the side of the road. As a result, the appellant as well as Gaddam Rajanna sustained injuries. They were shifted to the Gandhi Hospital, Secunderabad, where they were inpatients for 15 days. They took treatment privately and spent Rs.10,000/- each. The Police of Siddipet registered Crime No.1 of 1995 under Section 184/177 of the Motor Vehicles Act against the driver of the crime vehicle. The 1st respondent, as the owner of the crime vehicle, and the 2nd respondent, as the insurer of the said vehicle, are jointly and severally liable to pay compensation

to the appellant. The appellant claimed an amount of Rs.1,00,000/- as compensation.

3. Before the Tribunal, the first respondent remained *ex parte*. The second respondent filed its written statement 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 evidence produced by the parties, the Tribunal granted a total sum of Rs.23,500/- i.e., Rs.20,000/- towards fracture injury, Rs.232/- towards medical bills covered by Ex.A-6, Rs.1,500/- towards loss of income and Rs.1,768/- towards pain and suffering. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. It is seen from the perusal of the record that the Tribunal has not considered for payment of transportation charges of the appellant from the place of accident to Gandhi Hospital and also transportation charges from Gandhi Hospital to his residence when he was discharged. The Tribunal has also not considered the attendant charges when he was inpatient for 15 days in the Hospital. Under the head of pain and suffering, the Tribunal has awarded an amount of Rs.1,768/-, which is very meager. As admittedly, the accident has taken place and there was a fracture and the appellant was hospitalized for a period of 15 days, this Court feels that awarding an amount of Rs.10,000/- towards

pain and suffering would be just and proper. The Tribunal has also not taken into account the expenditure for extra nourishment. This Court feels that it would be just and proper to award an amount of Rs.5,000/- towards extra nourishment charges.

7. Accordingly, Rs.1,000/- is awarded towards transportation charges, Rs.3,000/- towards attendant charges, Rs.5,000/- towards Extra nourishment charges and the amount under the head of pain and suffering is enhanced to Rs.10,000/-. Insofar as the interest is concerned, for the amount awarded by the Tribunal, interest of 9% shall continue and with regard to the enhanced amount, interest of 7.5% shall be computed. Except the said enhancement, rest of the award remains un-changed.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.23,500/- to Rs.40,732/-. The appellant is entitled to interest @ 7.5% per annum on enhanced compensation from the date of petition till realization, as per the decision of the Apex Court in **Rajesh and others v. Rajbir Singh and others**¹. There shall be no order as to costs.

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

T.AMARNATH GOUD, J

Date: 13th June, 2019
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¹ 2013 ACJ 1403 = 2013 (4) ALT 35