

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.Nos.2577 of 2005 & 192 OF 2011

COMMON JUDGMENT:

Since both the appeals arise out of an order passed in O.P.No.368 of 1998, dated 08-04-2005, on the file of the Chairman, Motor Accident Claims Tribunal (District Judge), Nizamabad, (for short, the Tribunal), they are being disposed of by this common judgment.

2. M.A.C.M.A.No.2577 of 2005 is filed by the claimant in the O.P. seeking enhancement of compensation, while M.A.C.M.A.No.192 of 2011 is filed by the Insurance Company stating that the driver of the van is not responsible for the accident and that it has no liability to pay the compensation.

3. For the purpose of convenience, the parties are hereinafter referred to as they are arrayed in the O.P.

4. The brief facts of the case are that on 22.04.1997 at about 4.30 PM, while the petitioner was traveling as pillion rider on Hero Honda motorcycle driven by one M.A.Matin from Kamareddy towards Lingampet, and when they reached social forest nursery near Lingampally Village, a medium goods van came from Yellareddy side in a rash and negligent manner on wrong side of the road and dashed their Hero Honda Motorcycle and ran over the right leg of the petitioner, as a result of which, the latter sustained multiple fractures on right leg, crush injury to right foot, multiple and grievous head injuries and other multiple and grievous injuries on various part of the body. The petitioner took treatment in Government Hospital, Yellareddy, Gandhi Hospital,

Secunderabad, and thereafter, in private hospitals. He filed the aforesaid OP against respondent Nos.1 and 2, being owner and insurer of the van, respectively, claiming compensation of Rs.3,00,000/- for the injuries sustained by him.

5. Sri K.Sarala Mahender Reddy, learned counsel for the petitioner-appellant, would submit that the Tribunal erred in appreciating the medical evidence as regards the injuries of the petitioner and expenses that he had incurred during the period of treatment. He would further submit that the Tribunal failed to take into account the income of the petitioner in a proper manner without there being any evidence to the contrary and proceeded on technical grounds and awarded meager amount as compensation.

6. Sri E.Venugopal Reddy, learned standing counsel for respondent No.2-insurance company, would submit that that there is contributory negligence on the part of the petitioner in the accident. He would further submit that though Tribunal did not consider the evidence of P.W.2, who issued the disability certificate assessing the percentage of disability at 60%, after lapse of seven years from the date of accident; as he was not the Doctor who examined the petitioner at the time when the accident took place, and also Ex.C.1 disability certificate, awarded compensation, which is illegal and hence, the insurance company is not liable to pay the compensation and sought to set aside the judgment of the Tribunal.

7. A perusal of the medical evidence shows that the petitioner sustained type-III multiple fracture injuries apart from other grievous injuries, for which, he had taken treatment as inpatient for a considerable period of time. He underwent two major operations to his right leg, POP

applied to his entire right leg and ankle to thigh region and for the first time, POP remained for two months, and later for another two months. After six months, he returned to his house and took treatment in private hospitals. He incurred an amount of Rs.1,50,000/- for his treatment. Before accident, he used to earn Rs.5,000/- to Rs.6,000/- per month and also attended for police constable selection. However, later he became permanently disabled.

8. Though P.W.2 issued disability certificate under Ex.C.1 assessing the percentage of disability suffered by the petitioner at 60%, the Tribunal did not consider it in proper perspective. Admittedly, the petitioner suffered lot of physical as well as mental agony due to accident and lost his earning capacity also. That apart, the respondents did not even examine the driver of the van to contradict the negligence on the part of the driver of the van, as rightly held by the Tribunal.

9. In view of the above circumstances, this Court feels that the amount awarded by the Tribunal under various heads needs to be re-determined and accordingly, the compensation under various is enhanced as under:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Disability	Rs.50,000/-	Rs.50,000/-
01.	Pain and suffering	Rs.25,000/-	Rs.50,000/-
02.	Medical expenses	Rs.20,320/-	Rs.20,320/-
03.	Loss of earnings (4,500 X 12, instead of 3,000 X 12)	Rs.36,000/-	Rs.54,000/-
04.	Fracture	---	Rs.10,000/-
05.	Attendant charges for 3 months @Rs.100/- per day.	---	Rs.9,000/-
06.	Transportation charges	---	Rs.5,000/-
07.	Extranourishment charges	---	Rs.2,000/-
TOTAL		Rs.1,31,320/-	Rs.2,00,320/-

10. In the result, M.A.C.M.A.No.2577 of 2005 is partly allowed, and M.A.C.M.A.No.192 of 2011 is dismissed, by enhancing the compensation amount awarded by the Tribunal from Rs.1,31,320/- to Rs.2,00,320/-. The enhanced amount shall carry interest @ 7.5% per annum. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 14.10.2019
GJ

