

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.549 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 19.10.2005 passed in O.P.No.508 of 2004 by the Chairman, Motor Accident Claims Tribunal-IV Additional District Judge, At Warangal (for short, the 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 was aged 24 years and an agriculturist with a monthly income of Rs.3,000/- at the time of the accident. On 13.03.2003, the petitioner along with others boarded the auto rickshaw bearing No.AP 36V 3416 at Lohitha Village to go to Warangal. At about 4.00 p.m., it was driven in a rash and negligent manner, at the outskirts of Gavicherla Village while negotiating a road curve and at high speed, whereby the driver lost control and it over turned. In this accident, the petitioner suffered serious injuries and immediately he was taken to MGM Hospital, Warangal, where he was treated as an in-patient from 13.03.2003 to 07.04.2003. He had a surgery on 29.03.2003. In spite of spending more than Rs.5,000/- for his treatment and other charges, he did not completely recover. At the time of discharge, he was advised complete bed rest for more than four months. Hence, the petitioner filed the claim petition claiming

compensation of Rs.1,25,000/- with future interest @ 24% per annum, payable by both the respondents, being the owner and insurer of the offending auto rickshaw.

4 Before the Tribunal, Respondent No.1 remained *ex parte*. Respondent No.2 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 oral evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-14 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending auto rickshaw and awarded total compensation of Rs.41,500/- i.e., Rs.6,000/- towards loss of earnings, Rs.500/- towards transportation, Rs.2,000/- towards damage to clothing, Rs.3,000/- towards pain & suffering and Rs.30,000/- towards injuries, with interest @ 7.5% per annum from the date of presentation of the petition till the date of realization, against the 1st respondent only and the 2nd respondent was directed to satisfy the decretal amount initially and recover the same from the 1st respondent in the same proceedings making an appropriate application. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. Heard Sri A.Ravinder, learned counsel appearing for the appellant and Sri P.Bhanu Prakash, learned standing counsel

appearing for the 2nd respondent/insurance company. Perused the material records.

7. A perusal of the order reveals that the Tribunal passed a well considered order by taking into consideration all the aspects and as against the claim of Rs.1,25,000/-, the Tribunal awarded an amount of Rs.41,500/- with proportionate costs and interest @ 7.5% per annum, but with regard to the appellant facing discomfort, the Tribunal ought to have considered some compensation. Hence, this Court feels that it would be just and appropriate to award an amount of Rs.10,000/- under the head of discomfort. Therefore, the total compensation comes to Rs.51,500/- (Rs.41,500/- + Rs.10,000/-). With regard to the liability is concerned, the same holds good. 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.41,500/- to Rs.51,500/-. As directed by the Tribunal in the award, the Respondent No.2-insurance company is directed to pay the compensation amount at the first instance and recover the same from respondent No.1-owner of the crime vehicle. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. 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: 31st October, 2019

KL

