

THE HONOURABLE SRI JUSTICE T.A.MARNATH GOUD

MACMA No.1769 OF 2009

JUDGMENT:

Heard.

2. This appeal is filed by the injured against the award dated 24.11.2008 passed by the Motor Accidents Claims Tribunal-cum-Principal District Judge, Nalgonda (for short 'the Tribunal'), in O.P.No.16 of 2005, whereby the Tribunal awarded compensation of Rs.1,38,999/- on account of the injuries suffered by the claimant in the motor vehicle accident.

3. For the sake of convenience, the parties herein are referred to as arrayed in the Court below.

4. Aggrieved by the Award passed by the Tribunal, the injured filed this appeal seeking enhancement of compensation on the ground that the Tribunal has granted lump sum amount of Rs.60,000/- though he suffered 60% disability resulting in amputation of the left leg below the knee.

5. According to the petitioner, at the time of accident, he was travelling in an auto bearing No.AP 24 V 595 to go to Alair. He was aged 35 years and earning Rs.3,300/- per month as Sarpanch of Sharpanapuram Village.

6. Learned counsel for the appellant submitted that the Tribunal has not considered the occupation and income of the injured/claimant and awarded lump sum compensation, though his left leg was amputated after conducting operation and lost his earnings and suffered 60% disability.

7. There is no dispute with regard to the manner of accident and amputation of the left leg of the injured on account of the injuries suffered in the accident. The injured was working as Sarpanch of Sharpanapuram Village and he was traveling in an auto on the date of accident. In the absence of proof of income, the Tribunal refused to take the earnings of the deceased. Since the accident took place in the year 2004, it can be presumed that the deceased was aged 35 years at the time of accident and might have earned Rs.3,000/- per month. Considering the facts and circumstances of the case, the monthly income of the injured can be taken at Rs.3,000/- per month, which the annual income comes to Rs.36,000/- (Rs.3,000/- x 12). The medical evidence produced by the appellant indicates that he suffered 60% disability on account of the accident. Therefore, the loss of earning capacity of the injured, aged about 35 years at the time of accident, quantified on a multiplier '16' comes to Rs.3,36,000/- ($36,000/- \times 60/100 = 21,000 \times 16$), as per decision of SARALA

VARMA AND OTHERS v DELHI TRANSPORT CORPORATION AND ANOTHER¹. The petitioner is entitled for Rs.10,000/- towards pain and suffering and Rs.10,000/- towards extra-nourishment charges. The other heads i.e. Rs.49,999/- for bills, Rs.2,000/- towards transportation and Rs.25,000/- towards one grievous injury are unaltered. Thus, total compensation comes to Rs.4,32,999/- (Rs.3,36,000/-+Rs.10,000/-+ Rs.10,000/- + Rs.49,999/- + Rs.2,000/- + Rs.25,000/-), which can be rounded off to Rs.4,33,000/- as against Rs.1,38,999/- awarded by the Tribunal. The respondents 1 and 2 are directed to deposit the enhanced compensation of Rs.2,94,001/- with interest @ 7.5% per annum from the date of petition till the date of realization within three months from the date of judgment.

8. In the result, the appeal is allowed to the extent indicated above. There shall be no order as to costs.

Miscellaneous petitions if any, pending shall stand closed.

T.AMARNATH GOUD, J

25.06.2019
kvrn

¹ 2009 ACJ 1298