

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.121 of 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 22-09-2005 passed in O.P.No.3012 of 2003 by the M.A.C.T. –cum- XIII Additional Chief Judge, (F.T.C.) City Civil Court, Hyderabad (for short, the trial Court).

2. Brief facts of the case are that the claimant filed the claim petition against the respondents claiming compensation of Rs.1.00 lakh for the injuries sustained by him in the accident occurred on 15-11-2003 due to the rash and negligent driving of the driver of the lorry bearing No.AP 4T 7948, when he came for unloading the load of salt in the said lorry.

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 trial Court 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 and accordingly granted compensation of Rs.28,000/- under various heads, payable by the respondents jointly and severally with interest at 7.5% per annum through out.

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

6. Heard and perused the material available on record.

7. Learned counsel for the appellant-claimant contends that the trial Court erred in awarding meager compensation of Rs.5,000/- towards pain and suffering since the claimant was suffered from Grade-III Coop. fracture, left forearm 1/3rd and he was admitted in Osmania General Hospital from 16-11-2003 to 24-11-2003. Hence, he prayed for fair compensation.

8. As seen from the order of the trial Court, the Tribunal has granted compensation of Rs.28,000/- to the claimant under various heads. However, it is important to take note that the Tribunal under the head of pain and suffering, granted Rs.5,000/- only, which in my considered view, the same shall be enhanced by adding Rs.15,000/- more as it is grievous injury and due to which, he under went treatment for nine days in the hospital. Hence, an amount of Rs.20,000/- is granted under the head of pain and suffering instead of Rs.15,000/-.

9. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.43,000/- (Rs.28,000/- (+) Rs.15,000/-)

10. In the result, the appeal is allowed in part by enhancing the compensation awarded by the Tribunal from Rs.28,000/- to Rs.43,000/- (Rupees Forty Three 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.

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

JUSTICE T.AMARNATH GOUD

Date: 04.12.2019
kvr

