

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1251 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 30.08.2010 passed in O.P.No.924 of 2006 by the Motor Accidents Claims Tribunal-cum-IX Additional Chief Judge (FTC), City Civil Courts, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that on 27.04.2006 at about 6.45 am., while the appellant was doing work at Shaikpet Nala, driver of TATA Quallis bearing No.AP12D 9759 drove it in a rash and negligent manner at high speed and hit him. In the said accident, the appellant sustained grievous injuries all over the body and his right hand was amputated. He filed aforesaid OP against respondents Nos.1 and 2, owner and insurer of TATA Qualis, claiming compensation of Rs.5,00,000/- for the injuries sustained by him.

3. 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.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the TATA Qualis and awarded compensation of Rs.2,17,500/- with interest @ 9% per annum. Dissatisfied with the quantum of

compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Sri U.P.Rao, learned counsel for the appellant, submitted that though the appellant produced the evidence to show that he was earning Rs.3,000/- per month by working as Sweeper on contract basis, the Tribunal did not believe the same and erroneously granted compensation of Rs.2,17,500/- as against the claim of Rs.5,00,000/-. He further submitted that as per the judgment of the Hon'ble Supreme Court in **Syed Sadiq V. Divisional Manager, United India Ins. Co.**¹, the appellant is entitled to 50% increment towards future prospects. He further submitted that the Hon'ble Supreme Court while dealing with a case of amputation of right leg, in **Sanjay Kumar V. Ashok Kumar**² granted an amount of Rs.1,50,000/- towards mental agony and pain and suffering. Basing on the said submissions, the learned counsel seeks to enhance the compensation amount.

6. Sri Srinivasa Rao Vutla, learned Standing Counsel for respondent No.2, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. Though no proof of income of the deceased was filed, as the deceased is stated to be working as Sweeper on contract basis, I am inclined to fix the income of the deceased at Rs.3,000/- per month notionally. The appellant filed Ex.A.6, disability certificate, which

¹ AIR 2014 SC 1052

² 2014 ACJ 653

shows the disability of the appellant at 70%. The appellant examined P.W.2, the doctor who treated the appellant, who admitted to have issued Ex.A.6 and deposed that the left hand of the appellant was amputated. Therefore, I am inclined to take the disability of the appellant at 70%.

8. While dealing with cases of amputation of right leg, the Hon'ble Supreme Court in **Syed Sadiq's** case (supra), granted 50% increment in future prospect of income and in **Sanjay Kumar's** case (supra), granted an amount of Rs.1,50,000/- towards mental agony and pain and suffering. In the present case, as the left hand of the appellant was amputated, he is entitled for the said benefits. As the appellant was aged about 26 years at the time of accident, the appropriate multiplier is '17'. Hence, the compensation under the head 'loss of income' comes to Rs.6,42,600/- {Rs.4,500/- (Rs.3,000/- + 50%) X 12 X 17 X 70%}. Due to the amputation of left hand, the appellant might have lost earnings for a period of at least three months. Hence, an amount of Rs.9,000/- (Rs.3,000/- X 3 months) is granted towards loss of earnings. In the facts of the present case, the appellant is granted an amount of Rs.10,000/- towards transportation and medical bills and Rs.5,000/- towards extra nourishment. Therefore, the total compensation comes to Rs.6,66,600/- (Rs.6,42,600/- + Rs.9,000/- + Rs.10,000/- + Rs.5,000/-).

9. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the

Tribunal from Rs.2,17,500/- to Rs.6,66,600/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. As the appellant claimed only Rs.5,00,000/-, he is directed to deposit deficit Court fee before the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 01.08.2019
TJMR

