

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 749 OF 2006

JUDGMENT:

This appeal is directed by the claimant against the award dated 21.12.2005 passed by the Chairman M.V.A.C.T.-cum-V Additional District Judge (F.T.C.), R.R.District at L.B.Nagar (for short 'the Tribunal'), in O.P.No.707 of 2004, whereby the Tribunal granted compensation of Rs.1,45,800/-.

2. The facts of the case are that on 12.07.2004 at about 03.30 p.m., while the petitioner was going on Herohonda Motorcycle bearing No.AP28AH-4177 as a pillion rider from Ravalkole towards Gajularamaram on the extreme left side of the road and when he reached outskirts of Kistapur Village, opposite Chako company, Medchal to Shamirpet Raod, a Lorry bearing No. KA-05A-114 came in a rash and negligent manner at high speed and dashed their motorcycle, for which the petitioner sustained fracture to right femur, multiple fractures all over the body and he was shifted to Gandhi Hospital where he was treated as in-patient. The petitioner claims to be working as Welder-cum-Turner in M/s.Micro ETCH, and earning Rs.3,000/- per month and sought for compensation of Rs.3,00,000/-.

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

4. Respondent No.1 was set exparte. Respondent No.2 filed counter denying the claim petition.

5. In order to prove the case of the claimant, P.Ws.1 and 2 were examined and marked Exs.A.1 to A.13. No oral evidence is adduced on behalf of the respondents but marked Ex.B.1- copy of insurance policy.

6. The Tribunal on the strength of the evidence of P.W.2 has opined that the claimant was hospitalized for 52 days and has underwent two operations and plaster of paris bandage was also applied and cement patti was made to the fracture sustained to his right thigh. The disability of 40% was also accepted by the Tribunal, in view of the evidence given by P.W.2-Doctor who treated the petitioner. After considering various aspects, the Tribunal has awarded Rs.1,45,800/- as compensation with interest @ 7.5% per annum from the date of petition till the date of realization. Aggrieved thereby, the appellant/claimant filed the present appeal seeking enhancement of compensation.

7. The Tribunal, though Ex.A-10 salary certificate indicated Rs.3,000/- per month towards salary, without any cogent reasons, has considered the claimant's salary as Rs.2,000/- per month, which is unjust. While computing compensation, multiplier of 17 is made applicable since the age of the claimant was 22. In view of the **Sarala Varma v. Delhi Transport Corporation**¹, the correct multiplier is 18. Accordingly, the compensation towards disability and future loss of earnings is re-determined by taking the salary of claimant as Rs.3,000/- and applying the multiplier as 18, which comes to Rs.2,59,200/- (3,000 x 12 x 18 x 40%). The amounts

¹ 2009(6) SCC121

granted of Rs.1,650/- for medicines, Rs.3,000/- towards attendant charges, Rs.1,350/- towards transport charges, Rs.3,000/- for extra nourishment is well considered in all aspects and needs no interference of this Court. Thus, the total compensation, the claimant is entitled to is Rs.2,68,200/-. The enhanced compensation amount of Rs.1,42,400/- shall carry interest @ 7.5% per annum from the date of petition till the date of realization. Respondents 1 and 2 are directed to deposit the compensation amount within three months

8. In view of the above, the appeal is partly allowed. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 29-10-2019
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