

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1982 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 20.07.2006 passed in O.P.No.943 of 2004 by the III Additional District & Sessions Judge, at L.B. Nagar, Ranga Reddy District (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 on 26.11.2004 around 18.00 hours while he was proceeding on his Hero Honda Motorcycle bearing No.AP 24K 5074 from Panthangi to Malkapur, when he reached in front of Bhaskara Talkies, Choutuppal, at the same time, one lorry bearing No.AEK 1000, drove in a rash and negligent manner without following any traffic rules with high speed came in reverse direction from the land to main road and dashed his motorcycle due to which he fell down on the road and received multiple fractures and grievous injuries, i.e., fracture to left femur, bilateral maxillary fracture, fracture of mid palatal split, comminuted fracture symphysis, loss of teeth, head injury (15 sutures) and other multiple injuries all over the body. Immediately, the petitioner was shifted to Government Civil Hospital, Choutuppal, from there he was shifted to Kamineni Hospital, L.B. Nagar. He was treated as inpatient in the said hospital and underwent surgery.

Even thereafter, he was shifted to Medicare Hospital. The petitioner is aged about 24 years and hale and healthy before the accident and he was working as Air-conditioner fabricator and earning Rs.4,000/- per month and he is the only earning member in his family. Hence, the petitioner filed the claim petition claiming compensation of Rs.3,00,000/- with interest @ 12% per annum, payable by both the respondents, being the owner and insurer of the crime lorry.

4. Before the Tribunal, 1st respondent remained *ex parte*. The 2nd respondent filed a 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 to 3 and the documentary evidence of Exs.A-1 to A-11 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the offending lorry and awarded total compensation of Rs.1,46,133/- i.e., Rs.70,133/- towards medical expenditure, Rs.40,000/- towards pain & suffering and Rs.36,000/- towards loss of income, with interest @ 7.5% per annum from the date of petition till the date of realization, payable by both the respondents. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. Heard Sri T.Venkat Reddy, learned counsel appearing for the appellant/claimant and Sri Katta Laxmi Prasad, learned

standing counsel appearing for the 2nd respondent/insurance company. Perused the material record.

7. Admittedly, as per the evidence of P.W.3-Dr.C.Kama Raju, surgery was performed by him on 29.11.2004 for interlocking nailing of left femur. Other injuries were looked by dental surgeon. P.W.1, who is the petitioner, also took up follow up treatment on 06.01.2005, 05.02.2005, 07.05.2005 and asserted the disability as 15% which is partial and permanent in nature, but the Tribunal has rejected the said claim since no disability certificate has been produced by the competent authority. In view of the above, this Court concludes that the finding on the issue of disability and the claim under disability is rejected.

8. Since the amount awarded by the Tribunal towards pain and suffering @ Rs.10,000/- for each fracture injury, total 4 fracture injuries (fracture of mandible, bilateral fracture of maxilla, fracture of left femur and multiple lacerations on the face) is very meager, this Court feels that it would be just and reasonable if an amount of Rs.15,000/- for each fracture injury is awarded. Hence, total amount under the head of pain & suffering comes to Rs.60,000/- (Rs.15,000/- x 4 fractures). The Tribunal has not granted any amount towards extra nourishment, transport charges and attendant charges for a period of one month. Therefore, this Court feels that it would be just and necessary if Rs.5,000/- towards extra nourishment, Rs.2,000/- towards transport charges and Rs.3,000/- (Rs.100/-

per day X 30 days) towards attendant charges is awarded.

Hence, the total compensation under various heads is as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Medical Expenditure	Rs.70,133/-	Rs.70,133/-
02.	Pain & Suffering	Rs.40,000/-	Rs.60,000/-
03.	Loss of income	Rs.36,000/-	Rs.36,000/-
04.	Extra Nourishment	-	Rs.5,000/-
05.	Transport charges	-	Rs.2,000/-
06.	Attendant charges	-	Rs.3,000/-
TOTAL		Rs.1,46,133/-	Rs.1,76,133/-

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.1,46,133/- to Rs.1,76,133/- payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the entire amount. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 22nd November, 2019

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