

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3551 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 18.04.2008 passed in O.P.No.247 of 1992 by the Motor Accidents Claims Tribunal (Principal District Judge) at Nalgonda (for short, the Tribunal).

2. The brief facts of the case are that on 05.03.1992 at about 12.30 pm., while the appellant was traveling in RTC bus bearing No.AEZ 3674 from Bhongir to Hyderabad, a lorry bearing No.AET 1771 came in a rash and negligent manner with high speed and hit the rear portion of the bus, due to which, the appellant sustained grievous injuries to his right hand which was subsequently amputated. He filed aforesaid OP against respondent No.1-RTC and respondent Nos.2 and 3, owner and insurer of lorry, claiming compensation of Rs.5,40,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent No.2 remained *ex parte*. Respondent Nos.1 and 3 filed their separate counters 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 drivers of the RTC and lorry were equally responsible for occurrence of the accident and awarded compensation of Rs.1,59,000/- with interest @ 7.5% per annum. The Tribunal directed respondent Nos.1 and 3

to pay 50% each of the compensation amount to the appellant. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Sri Chandrasekhar Reddy Gopireddy, learned counsel for the appellant, submitted that though the appellant produced evidence to show that he was working as barber in a shop and was earning Rs.4,000/- to Rs.6,000/- per month, the Tribunal did not consider the same and erroneously granted an amount of Rs.1,00,000/- towards loss of right limb, which is meager. He further submitted that due to the injuries suffered in the accident, the right hand of the appellant was amputated and hence, his disability can be considered at 100% as per the decision of Hon'ble Supreme Court in **Jakir Hussein V. Sabir**¹. He further submitted that as per the judgment of the Hon'ble Supreme Court in **Jagdish V. Mohan**², the appellant is entitled to 40% increment towards future prospects. He further submitted that the claimant is entitled to Rs.1,50,000/- towards mental agony and pain and suffering as per the judgment of the Hon'ble Supreme Court in **Sanjay Kumar V. Ashok Kumar**³. He further submitted that the claimant is entitled to Rs.1,00,000/- towards loss of enjoyment of life as per the judgment of the High Court of Gujarat at Ahmedabad in **Ramsinh Harisinh Rajput V. Paba Deva Rabari**⁴. Basing on the said submissions, the learned counsel seeks to enhance the compensation amount.

¹ 2015 ACJ 721

² (2018) 4 SCC 571

³ 2014 ACJ 653

⁴ 2018 ACJ 1710

6. Sri Ravi Shankar Jandhyala, learned Standing Counsel for respondent No.3, submitted that in the absence of any disability certificate, 100% disability cannot be taken into consideration. He further submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. Though no proof of income is filed by the appellant, Ex.A.8, photographs, shows that the appellant is a Barber by profession. Therefore, I am inclined to fix the notional income of the appellant at Rs.5,000/- per month. In **Jakir Hussein's** case (supra), while dealing with a case of the injured who suffered severe compound fractures in right arm and hand completely crushed and deformed, took the disability at 100%, though he produced disability certificate showing 55%. In the present case, though the appellant filed certificate showing his disability at 70%, as he will not be in a position to perform his work as a Barber due to amputation of right hand, I am inclined to take the disability of the appellant at 100%. As rightly contended by the learned counsel for the appellant, the appellant is entitled to 40% future prospects as per **Jagdish's** case (supra). As the appellant was aged about 25 years at the time of accident, the appropriate multiplier is '18'. Hence, the compensation under the head 'permanent disability' comes to Rs.15,12,000/- {Rs.7,000/- (Rs.5,000/- + 40% future prospects) X 12 X 18}. The appellant is entitled to Rs.1,50,000/- towards mental agony and pain and suffering as per **Sanjay Kumar's** case (supra) and Rs.1,00,000/- towards loss of enjoyment of life as per **Ramsinh Harisinh Rajput's** case (supra). The other amounts

granted by the Tribunal need no interference and the same are confirmed. Therefore, the total compensation comes to Rs.17,71,000/- (Rs.15,12,000/- + Rs.1,50,000/- + Rs.1,00,000/- + Rs.5,000/- + Rs.4,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.1,59,000/- to Rs.17,71,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. Respondent Nos.1 and 3 are directed to pay the compensation amount equally to the appellant. The appellant is directed to deposit deficit Court fee over and above the amount claimed by him. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 26.08.2019
Shr