

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2805 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Judgment and Decree dated 24.08.2009 passed in M.V.O.P.No.500 of 2006 by the Chairman, Motor Accident Claims Tribunal-cum-Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that on 24.04.2006 at about 8.00 A.M., while the appellant was proceeding on his motorcycle from his office towards his house, the driver of the lorry bearing No.AP16T 3377, drove the vehicle at high speed, in a rash and negligent manner and dashed the appellant, as a result of which, the appellant fell down and sustained fracture injuries. He filed aforesaid OP against respondent Nos.1 and 2, owner and insurer of motorcycle, respectively, claiming compensation of Rs.3,00,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 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 Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the lorry and awarded total compensation of Rs.77,000/- with interest @ 7.5% per annum, i.e., Rs.30,600/- towards permanent disability, Rs.3,000/- towards loss of income, Rs.42,000/- towards medical

expenses, extra nourishment and attendant charges, Rs.1,000/- towards damages to the motorcycle and Rs.400/- towards transportation charges. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Since the appellant has not filed any proof of income, this Court feels that the income taken into consideration by the Tribunal at Rs.3,000/- per month is correct. Though PW.2-Medical Officer, deposed that the appellant is suffering from 20% disability., the Tribunal estimated the disability at 5%. In view of the fact that the appellant is suffering from right elbow and wrist stiffness, this Court feels that it is just and proper to estimate the permanent disability at 10%. Since the appellant is aged about 25 years, the appropriate multiplier for the age of the appellant is '18'. Therefore, the compensation under the head 'permanent disability' comes to Rs.64,800/- (Rs.36,000/- X 18 X 10%). The appellant underwent treatment from 24.04.2006 to 05.05.2006 and thereafter also he visited the hospital for physiotherapy treatment. For the same, the Tribunal granted an amount of Rs.3,000/- under the head loss of income and the said amount is enhanced to Rs.6,000/-. In addition to the same, the Tribunal granted Rs.42,000/- towards medical expenses, extra nourishment and attendant charges and this Court feels it just and proper to enhance to same to Rs.44,000/-. The Tribunal awarded Rs.400/- towards transportation charges, but it is seen from the record, the appellant visited NIMS Hospital for taking physiotherapy treatment up to 30th

June, 2006 and thereafter also, he visited the said Hospital, for which, an amount of Rs.4,500/- is awarded and Rs.5,000/- is awarded towards paid and suffering. Thus, the enhanced compensation would be as under:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Permanent disability	30,600-00	64,800-00
02.	Loss of income	3,000-00	6,000-00
03.	Medical expenses, Extra nourishment and attendant charges	42,000-00	44,000-00
04.	Pain and suffering	--	5,000-00
05.	Damages to motor cycle	1,000-00	1,000-00
06.	Transportation charges	400-00	4,500-00
	Total	Rs.77,000-00	1,25,300-00

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.77,000/- to Rs.1,25,300/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 18.07.2019
Shr