

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 307 OF 2006

JUDGMENT:

This appeal is directed by the claimant against the award dated 17.02.2005 by the IV Additional District & Sessions Judge, Fast Track Court, R.R.District at L.B.Nagar (for short 'the Tribunal'), in O.P.No.63 of 2002, whereby the tribunal granted compensation of Rs.36,000/-.

2. The facts of the case are that on 25.01.2001 at about 11.30 a.m., while the petitioner along with two others was traveling in an auto from Jeedimetla to go to Patancheru, a Lorry bearing No. ABT 4787 came from back side in a rash and negligent manner at high speed, dashed the auto, for which the petitioner and other passengers including the driver received serious injuries and fracture, they were shifted to Government Hospital, Sanga Reddy and thereafter shifted to CDR Hospital for treatment and that the petitioner sustained fracture of nasal bone, injuries to chest and all parts of the body. The petitioner was aged about 24 years and he was an auto driver at the time of accident. Due to the accident, the petitioner could not drive the auto and lost his earnings and sought a compensation of Rs.1,00,000/-.

3. The tribunal after considering the evidence and material available on record has awarded Rs.36,000/- as compensation with interest @ 9% per annum from the date of petition till the date of realization as against the claim of Rs.1,00,000/-. Aggrieved

thereby, the appellant/claimant filed the present appeal seeking enhancement.

4. For the sake of convenience, the parties herein are referred to as arrayed in the tribunal.

5. Respondent No.1 was set exparte before the tribunal and though notice is served in the appeal, there is no representation on its behalf. Respondent No.2 filed counter denying the claim petition.

6. In order to prove the case of the claimant, PW.1 was examined and marked Exs.A.1 to A.9. No oral evidence is adduced on behalf of the respondents but marked Ex.B.1- copy of insurance policy.

7. It is a case of injuries i.e. fracture of nasal bone, injuries to chest, legs and all parts of the body. Basing on the material available on record, the tribunal allowed the appeal in part. The award passed by the tribunal in granting Rs.36,000/- (Rs.22,000/- + Rs.5,000/- + Rs.2,000/- + Rs.1,000/- + Rs.6,000/-) is well considered in all aspects and needs no interference of this Court. However, with regard to the loss of income, the tribunal considered the income of the petitioner only as Rs.2,000/- per month and granted Rs.6,000/- for three months. As the petitioner was an auto driver, his income can be taken as Rs.3,000/- per month. In view of the same, the petitioner is entitled for Rs.9,000/- for three months income. The petitioner is also entitled for a sum of Rs.2,000/- towards extra nourishment. Thus, the petitioner is

entitled for a sum of Rs.41,000/- (Rs.22,000/- + Rs.5,000/- + Rs.2,000/- + Rs.1,000/- + Rs.9,000/- + Rs.2,000/-). The enhanced compensation amount of Rs.5,000/- shall carry interest @ 7.5% per annum from the date of petition till the date of realization. Respondents are directed to deposit the compensation amount jointly and severally within three months.

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

Miscellaneous petitions if any, shall stand closed.

Date: 29-10-2019
dv

T.AMARNATH GOUD,J

