

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A. No.1200 OF 2004

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 06.01.2004 passed in O.P.No.1005 of 2001 by the II Additional Chief Judge, City Civil Court, Hyderabad (for short, the Court below).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Court below in the original petition.

3. The brief facts of the case are that on 13.10.2000 at about 9.00 a.m., he was proceeding on cycle from his residence towards Asifnagar Water Works to attend to his duties and was crossing Aghapura from the extreme left side of the road. At the same time, one private bus bearing No.KA 01B 5077 was also proceeding in the same direction. The driver of the said bus drove the vehicle at high speed in a rash and negligent manner, lost control while taking turn near Aghapur X road, and dashed to the cycle of the petitioner from behind. Due to the impact, the petitioner fell down on the road and left front tyre of the bus ran over the right foot of the petitioner, due to which the petitioner sustained crush injury to his right foot and ankle joint. Immediately, the petitioner was shifted to Osmania General Hospital, Hyderabad, for treatment, and on 14.10.2000, he got discharged and admitted in Premier Hospital, Humayunnagar, Hyderabad, and was admitted as inpatient for

one month. The petitioner was working as driver with Hyderabad Metro Water Works and was drawing monthly salary of Rs.7,304/- and he is the only earning member of his family. Due to the said accident, he sustained permanent disability and for more than three months, he was on loss of pay. Hence, the petitioner filed the claim petition claiming compensation of Rs.2,00,000/-, payable by both the respondents, being the owner and insurer of the offending bus.

4 Before the Court below, the 1st respondent remained *ex parte*. Respondent No.2 filed 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 & 2 and the documentary evidence of Exs.A-1 to A-10 & Ex.B-1, the Court below came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending bus and awarded total compensation of Rs.37,000/- i.e., Rs.7,000/- towards injuries, Rs.5,000/- towards pain & suffering, extra nourishment & transportation, Rs.20,000/- towards medical expenses and Rs.5,000/- towards skin grafting, with interest @ 9% per annum from the date of petition till the date of deposit, payable by both the respondents. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. In spite of service of notice, there is no representation for the 2nd respondent/insurance company and even when the matter is listed today and the name of the Oriental Insurance Co. Ltd., Hyderabad, is printed in the cause list, there is no representation for the 2nd respondent/insurance company. Since this matter pertains to the year 2004 and the accident has taken place on 13.10.2000, dodging the matter on one pretext or the other is of no purpose. Hence, the matter is decided on the strength of the evidence and material available on record and after hearing Sri M.Vijay Reddy, learned counsel appearing for the appellant and perusing the material record.

7. Admittedly, as per the evidence of P.W.1, since the petitioner received crush injury on his right foot and underwent several operations by Orthopedic Surgeon and by plastic surgeon in Premier Hospital, Humayunagar, Hyderabad, the amount of Rs.7,000/- awarded by the Tribunal towards the injuries, which is very meager, this Court feels that it would be just and appropriate to award an amount of Rs.15,000/- towards injuries. Under the head of medical expenses, the Tribunal has only granted an amount of Rs.20,000/-, but as per Ex.A-7-medical bills, the petitioner incurred an amount of Rs.31,742/-. Therefore, this Court feels that it would be just and appropriate to grant an amount of Rs.31,742/- towards medical expenses. Except the said enhancement, rest of the award remains un-changed. Accordingly, the total compensation under various heads comes as under:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Injuries	Rs.7,000/-	Rs.15,000/-
02.	Pain & Suffering, extra nourishment & transportation	Rs.5,000/-	Rs.5,000/-
03.	Medical expenses	Rs.20,000/-	Rs.31,742/-
04.	Skin grafting	Rs.5,000/-	Rs.5,000/-
TOTAL		Rs.37,000/-	Rs.56,742/-

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Court below from Rs.37,000/- to Rs.56,742/-, payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till the date of 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. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

T.AMARNATH GOUD, J

Date: 23rd October, 2019

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