

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**C.M.A. No.27 OF 2004**

**JUDGMENT:**

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 06.11.2003 passed in O.P.No.98 of 2000 by the Motor Vehicle Accidents Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad (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 the petitioner was aged 20 years and was a student by the date of filing of the petition. On 26.09.1999 at about 6.20 a.m. while he was proceeding on his Yamaha Motorcycle bearing No.AP 10D 5282 and L.Prachetan Rao as pillion rider, to go to Shiridi from Sikshaknagar, Paud Road to Swargate, Pune and when the motorcycle reached near Krishna General Hospital, Prudent Society Gate, Pune, one Maruthi car bearing No.MH 12YA 8131 coming from opposite direction in high speed and in rash and negligent manner and on extreme right side of the road, dashed the said motorcycle, due to which the petitioner and the pillion rider fell down and sustained grievous multiple injuries and they both were shifted to Krishna General Hospital, Pune, for treatment. Due to the impact of the accident, the glass pieces

form the wind screen of the offending car pierced deep into the face, thighs and other parts of the petitioner's body and sustained grievous injuries on right leg knee cap and also suffered great pain in legs. Hence, the petitioner filed the claim petition claiming compensation of Rs.1,12,000/-, payable by both the respondents, being the owner-cum-driver and insurer of the offending car.

3. Before the Tribunal, the 1<sup>st</sup> respondent remained *ex parte*. The respondent No.2 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.

4. After considering the oral evidence of P.Ws.1 to 3 and the documentary evidence of Exs.A-1 to A-15 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the offending car and awarded total compensation of Rs.17,000/- i.e., Rs.1,000/- towards transportation charges, Rs.5,000/- towards extra nourishment and medicines, Rs.1,000/- towards damages to clothing and Rs.10,000/- towards pain, suffering and shock, with interest @ 9% 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.

5. Heard Sri P.Sriharsha Reddy, learned counsel appearing for the appellant and Sri K.Kishore Kumar Reddy, learned

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

6. Learned counsel for the petitioner contends that the compensation amount awarded by the Tribunal is very meager, since the Tribunal has not granted any amount towards attendant charges, loss of amenities, extra nourishment, loss of future earnings and future discomfort and prayed to allow the appeal.

7. Learned counsel for the appellant also relied on a decision reported in **Govind Yadav v. New India Assurance Co. Ltd.**<sup>1</sup> to award just compensation.

8. In the facts and circumstances of the case and the submissions made by the learned counsel for the appellant and basing on the above judgment, this Court feels that it would be just and appropriate to enhance the compensation under various heads as follows:

| Sl.No. | Name of Head                    | Awarded by Tribunal | Awarded by this Court |
|--------|---------------------------------|---------------------|-----------------------|
| 01.    | Transportation charges          | Rs.1,000/-          | Rs.10,000/-           |
| 02.    | Extra Nourishment and medicines | Rs.5,000/-          | Rs.10,000/-           |
| 03.    | Damages to clothing             | Rs.1,000/-          | Rs.4,000/-            |
| 04.    | Pain, suffering and shock       | Rs.10,000/-         | Rs.75,000/-           |
| 05.    | Future medical expenses         | -                   | Rs.50,000/-           |
| 06.    | Loss of amenities               | -                   | Rs.1,50,000/-         |
| 07.    | Attendant charges               | -                   | Rs.10,000/-           |

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<sup>1</sup> 2012 ACJ 28

|              |                                                           |                    |                                         |
|--------------|-----------------------------------------------------------|--------------------|-----------------------------------------|
| 08.          | Loss of earnings @ Rs.12,000/- per month for three months | -                  | Rs.36,000/-<br>(Rs.12,000/- x 3 months) |
| 09.          | Medical and hospital expenses                             | -                  | Rs.50,000/-                             |
| 10.          | Loss of amenities                                         | -                  | Rs.75,000/-                             |
| 11.          | Discomfort                                                | -                  | Rs.25,000/-                             |
| <b>TOTAL</b> |                                                           | <b>Rs.17,000/-</b> | <b>Rs.4,95,000/-</b>                    |

7. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.17,000/- to Rs.4,95,000/- 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. As the claimant claimed only Rs.1,12,000/-, he is directed to deposit deficit Court fee before the Tribunal. 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, subject to payment of deficit court fee. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

**T.AMARNATH GOUD, J**

Date: 8<sup>th</sup> November, 2019

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