

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

**M.A.C.M.A. No.1439 OF 2006**

**JUDGMENT:**

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 17.10.2005 passed in M.V.O.P.No.958 of 2001 by the Motor Accident Claims Tribunal (VII Additional District Judge), (FTC), Nizamabad at Bodhan (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 on 17.10.2000 at about 7.10 p.m., the petitioner was returning from Bheemgal Police Station after completing his duty and when he reached in front of the new bus stand, Bheemgal, the jeep bearing No.AP-25-T-7412 belonging to the 1<sup>st</sup> respondent came in a rash and negligent manner and dashed against the scooter of the petitioner, as a result, he sustained fractures, injuries and he is working as police constable in Bheemgal Police Station earning Rs.5,000/- per month and contributing the entire salary to his family members. He incurred an expenditure of Rs.80,000/- for his treatment at Hyderabad for insertion of rod and screws and in future requires Rs.40,000/- for removal of rod and screw. Hence, the petitioner filed the claim petition claiming

compensation of Rs.3,00,000/-, payable by both the respondents, being the owner and insurer of the offending jeep.

4. Before the Tribunal, the 1<sup>st</sup> respondent remained *ex parte*. The 2<sup>nd</sup> respondent filed written statement 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-99 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the offending jeep and awarded total compensation of Rs.15,000/- i.e., Rs.10,000/- towards grievous injury, Rs.2,000/- towards simple injury and Rs.3,000/- towards pain and suffering, 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/claimant filed the present appeal, seeking enhancement of the same.

6. Heard Mr. K.Sarala Mahender Reddy, learned counsel appearing for the appellant/claimant and Mr. Kunwar Anshul Singh, learned counsel representing Smt. P.Satya Manjula, learned standing counsel appearing for the 2<sup>nd</sup> respondent/insurance company.

7. Mr. K.Sarala Mahender Reddy, learned counsel for the appellant/claimant contends that the compensation amount

awarded by the Tribunal is very meager and the Tribunal has not granted any amount towards loss of earnings for the leave period from 17.10.2000 to 23.05.2001 and prayed to allow the appeal.

8. On the other hand, Mr. Kunwar Anshul Singh, learned counsel representing Smt. P.Satya Manjula, learned standing counsel appearing for the 2<sup>nd</sup> respondent/insurance company, vehemently opposed that it is not a fit case to enhance the compensation since Ex.A99-Disability Certificate cannot be relied upon and the Tribunal has rightly rejected the claim for disability and hence, prayed to dismiss the appeal.

9. Admittedly, the claimant was hospitalized on 17.10.2000 and discharged on 19.10.2000 and was on sick leave from 17.10.2000 to 23.05.2001. Since the appellant is working as Police Constable in Bheemgal Police Station and earning Rs.5,000/-, this Court feels it would be just and proper if an amount of Rs.30,000/- (Rs.5,000/- x 6 months) is granted towards loss of income. Since the amounts granted by the Tribunal towards grievous injury and pain & suffering are very meager, this Court feels that it would be just and proper if an amount of Rs.15,000/- towards grievous injury and an amount of Rs.5,000/- towards pain and suffering are awarded to the appellant. The amount of Rs.2,000/- granted by the Tribunal towards simple injury remains the same. Hence, the total compensation under various heads is as follows:

| Sl.No.       | Name of Head     | Awarded by Tribunal | Awarded by this Court |
|--------------|------------------|---------------------|-----------------------|
| 01.          | Grievous Injury  | Rs.10,000/-         | Rs.15,000/-           |
| 02.          | Simple Injury    | Rs.2,000/-          | Rs.2,000/-            |
| 03.          | Pain & Suffering | Rs.3,000/-          | Rs.5,000/-            |
| 04.          | Loss of earnings | -                   | Rs.30,000/-           |
| <b>TOTAL</b> |                  | <b>Rs.15,000/-</b>  | <b>Rs.52,000/-</b>    |

10. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.15,000/- to Rs.52,000/- 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. 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. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

**T.AMARNATH GOUD, J**

Date: 6<sup>th</sup> December, 2019

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