

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

**M.A.C.M.A. No.1580 OF 2008**

**JUDGMENT:**

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 22.01.2008 passed in M.V.O.P.No.1436 of 2006 by the Motor Accidents Claims Tribunal-CUM-XIII Additional Chief Judge (Fast Track Court), City Civil Court at Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that on 15.04.2006 at about 11.00 am., while the appellant was proceeding in his Maruti car bearing No.AP9 7767 along with his son and others from Begumpet Village towards Sultanpur Village side on Hyderabad to Srisailam Road, a lorry bearing No.AP9W 5994 came in a rash and negligent manner with high speed and dashed the Maruti car in opposite direction, as a result of which, the appellant sustained grievous injuries. He filed aforesaid MVOP against respondent Nos.1 and 2, the owner and the insurer of lorry, respectively, claiming compensation of Rs.5,00,000/- 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.1,25,350/- with interest @ 7.5% per annum, i.e., Rs.20,000/- towards one fracture, Rs.10,000/- towards shock, pain and suffering, Rs.83,350/- towards medical expenses, Rs.9,000/- towards loss of earnings, Rs.2,000/- towards extra nourishment and Rs.1,000/- towards transport expenses. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Sri G.Vikram Chandra, learned counsel for the appellant, submits that the Tribunal fixed the income of the appellant at Rs.100/- per day, which is lower side, and sought to enhance the same to Rs.300/- per day, as the appellant was working as labour supervisor. He further submits that though P.W.2, the doctor who treated the appellant, deposed that he had issued disability certificate, the Tribunal did not take into consideration the disability of the appellant and also the requirement of second surgery and did not grant any amount under that heads. He further submits that the Tribunal also wrongly disbelieved the medical bills worth of Rs.9,920/-. He further submits that the amounts granted under the heads of extra nourishment and transport are lower side and sought to enhance the compensation under the aforesaid heads.

6. Smt.P.Satya Manjula, learned counsel appearing for Sri Nisaruddin Ahmed Jeddy, learned counsel for respondent No.2, submits that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. Though P.W.2, the doctor who treated the appellant, deposed that he had issued disability certificate, the Tribunal did not take into consideration the same, as the certificate was not filed before it. Therefore, the contention of the learned counsel for the appellant in that regard is rejected. Insofar as the other contention of the learned counsel for the appellant with regard to fixation of income of the appellant at Rs.100/- per day, this Court is inclined to grant the same. Apart from the same, this Court feels that it would be appropriate to enhance the compensation under various heads as follows:

| <b>Sl.No.</b> | <b>Name of Head</b>     | <b>Awarded by Tribunal</b> | <b>Awarded by this Court</b> |
|---------------|-------------------------|----------------------------|------------------------------|
| 01.           | Pain and suffering      | Rs.10,000/-                | Rs.10,000/-                  |
| 02.           | Fracture                | Rs.20,000/-                | Rs.20,000/-                  |
| 03.           | Medical expenses        | Rs.83,350/-                | Rs.86,370/-                  |
| 04.           | Loss of earnings        | Rs.9,000/-                 | Rs.18,000/-                  |
| 05.           | Extra nourishment       | Rs.2,000/-                 | Rs.5,000/-                   |
| 06.           | Transport expenses      | Rs.1,000/-                 | Rs.2,000/-                   |
| 07.           | Future medical expenses | ---                        | Rs.15,000/-                  |
| <b>TOTAL</b>  |                         | <b>Rs.1,25,350/-</b>       | <b>Rs.1,56,370/-</b>         |

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.1,25,350/- to Rs.1,56,370/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of

petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

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**T.AMARNATH GOUD, J**

Date: 20.06.2019  
TJMR

