

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.2265 OF 2006

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicle Act, is preferred by the appellant/petitioner aggrieved by the Judgment, dated 06.03.2006, passed in O.P.No.159 of 2002 by the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Nizamabad (for short, 'the Tribunal').

2. For the sake of convenience, the parties will be referred to as they arrayed in the aforesaid O.P.

3. The brief facts of the case are that on 10.12.2001 the petitioner along with others boarded the crime Jeep bearing No.AP-25-T-5156 in order to go to Nizamabad from Varni bus stand and on the way at about 7:30 P.M., near Mallaram gandhi, the driver of the jeep drove the jeep in a rash and negligent manner with a high speed and dashed against the tree situated by the side of the road. Due to which, the petitioner and other occupants of the Jeep fell down from the jeep and sustained several injuries. The petitioner received fracture injuries of both bones of left leg, fracture of first, second and third ribs of left side and also received injuries on his head, legs, hands, back and other parts of the body. Immediately, after the accident, the petitioner was shifted to Government Headquarters Hospital, Nizamabad, and fromthere, he was shifted to private hospital for better treatment. The petitioner incurred an amount of Rs.30,000/- towards treatment and Rs.10,000/- towards extra nourishment. The petitioner also sustained permanent disability due to accident. Hence, the petitioner filed

claim petition claiming compensation of Rs.3,00,000/- under various heads against the respondents.

4. Respondents 1 and 2 filed separate written statements denying the rash and negligent driving of driver of the crime vehicle as well as the manner of the accident. The respondents also denied the age, income, number of injuries and also nature of treatment taken by the petitioner. It is further stated that the compensation claimed by the petitioner is excessive. It is also stated by the 1st respondent that at the time of accident, the crime jeep having insurance policy issued by the 2nd respondent and so also the driver of the crime and that the vehicle was road worthy to ply on the road at the time of accident. As such any compensation awarded, it is the liability of the insurance company to pay the same and not the owner of the crime vehicle. The 2nd respondent would submit that the driver of the crime vehicle was not having valid driving licence at the time of accident. It is further stated that the crime vehicle was not having valid permit and fitness certificate of RTO and ultimately, prayed to dismiss the claim petition.

5. After considering the evidence of P.Ws.1 and 2, Exs.A-1 to A-11 and Exs.C1 to C.4, the Tribunal came to the conclusion that the subject accident had occurred due to rash and negligent driving of driver of the Jeep and awarded total compensation of Rs.53,000/-, i.e., Rs.20,000/- towards pain and suffering, Rs.13,000/- towards medical expenses, Rs.20,000/- towards partial permanent disability with interest @ 7.5% per annum from the date of petition till the date of realization, payable by both the

respondents. Aggrieved by the said order, the appellant/petitioner filed the present appeal seeking enhancement of the compensation.

6. Heard Sri K.M.Mahender Reddy, learned counsel for the appellant/petitioner and Smt. M.Bhaskara Lakshmi, learned standing counsel for the 2nd respondent/insurance company. Perused the material record.

7. With regard to disability, the appellant examined P.W.2, the doctor and filed Ex.C.2, disability certificate, which shows that the petitioner sustained 20% disability because of malunion of the fracture of both bones of left leg. Once the Tribunal has come to a conclusion that the appellant/petitioner has suffered disability of 20%, it is not open to it to award consolidated quantum of Rs.20,000/- notionally towards disability. In the facts and circumstances of the case, this Court is inclined to fix the disability of the petitioner at 20%.

8. With regard to the income of the appellant/petitioner is concerned, he is working as Lecturer and getting monthly salary of Rs.7,000/-. But, the Tribunal erroneously has not taken the monthly income of the appellant/petitioner. Therefore, this Court is inclined to consider the monthly income of the appellant/petitioner @ Rs.7,000/- per month. Since the age of the appellant is 39 years at the time of the accident, the multiplier applicable is '15' as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**¹. Therefore, the compensation under the head 'loss of income' due to disability comes to Rs.3,15,000/- (Rs.7,000/- X 12 X 15 X 25%).

¹ (2009) 6 SCC 121

9. Insofar as the issue pertains to awarding of future prospectus is concerned, this Court is not inclined to grant future prospectus since the future loss of income due to disability is not proved by the petitioner since he is a Government employee and getting his pay. Therefore, the finding given by the Tribunal with regard to future prospectus is confirmed.

10. Except the above modification, the rest of the award remains un-changed. Hence, the total compensation under various heads is as follows:

Sl. No.	Name of Head	Awarded by Court below	Awarded by this Court
01.	Pain & suffering	Rs.20,000/-	Rs.20,000/-
02.	Medical expenses	Rs.13,000/-	Rs.13,000/-
03.	Loss of income	Rs.20,000/-	Rs.3,15,000/-
TOTAL		Rs.53,000/-	Rs.3,48,000/-

11. In the result, the appeal is allowed enhancing the compensation amount awarded by the Court below from Rs.53,000/- to Rs.3,48,000/-, 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 petitioner is permitted to withdraw the entire amount. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

28th November, 2019

T.AMARNATH GOUD, J

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THE HON'BLE SRI JUSTICE T.AMARNATH GOUD



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Date:28.11.2019