

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.862 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 15.09.2005 passed in M.V.O.P.No.60 of 1999 by the Motor Accident Claims Tribunal-cum-VII Additional District Court (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 14.08.1997 at about 11.00 p.m., the petitioner was returning home after closing his STD Telephone Booth and he was proceeding on his cycle and when he reached near Vijaya Mary Convent School at Rakasipet locality of Bodhan Town, the Bajaj Chetak Scooter belonging to the 2nd respondent, driven by the 1st respondent, in a rash and negligent manner dashed the petitioner, due to which he received fractures and injuries. Immediately he was taken to a doctor at Bodhan and as his condition was serious, immediately shifted to Government Head Quarters Hospital, Nizamabad, and he was inpatient there on 15.08.1997. Later he was shifted to Pragathi Hospital, Nizamabad, where he was treated as inpatient from 15.08.1997 to 09.09.1997, still he is taking treatment privately and spent more than Rs.25,000/- for his medical treatment. Because of the accident he sustained permanent

disability. His legs and hands got fractured and he is unable to walk and work properly. Thus, he sought compensation of Rs.1,00,000/- originally, but later amended the same to Rs.2,00,000/- for the injuries and disability sustained by him in the said accident, payable by all the respondents. At the time of filing of the petition, the petitioner was minor, represented by his father guardian and subsequently he was declared as major.

4. Before the Tribunal, respondents 1 & 2 remained *ex parte*. The 3rd respondent, who is the insurer of the offending scooter, 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 the claim got amended from Rs.1,00,000/- to Rs.2,00,000/- by the petitioner, the 3rd respondent filed an additional written statement contending that the enhancement from Rs.1,00,000/- to Rs.2,00,000/- is without any basis and beyond all proportions and thus sought for dismissal of the application.

6. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred on account of the rash and negligent driving of the scooter and awarded total compensation of Rs.25,000/- to the petitioner i.e., Rs.20,000/- towards two grievous injuries, Rs.2,000/- towards one simple injury and Rs.3,000/- towards pain & suffering. Dissatisfied with the quantum of

compensation, the appellant filed the present appeal, seeking enhancement of the same.

7. Heard Sri Kovai Venugopal, learned counsel appearing for the appellant and Smt.I.Maamu Vani, learned Standing Counsel appearing for the 3rd respondent/insurance company. Perused the material on record.

8. Sri Kovai Venugopal, learned counsel appearing for the appellant, submits that the amount of Rs.20,000/- awarded by the Tribunal towards two grievous injuries is very meager and that the Tribunal has not awarded any amount towards attendant charges and extra nourishment and prays to enhance the compensation awarded by the Tribunal.

9. Smt. I.Maamu Vani, learned standing counsel for the 3rd respondent/insurance company contended that it is not a fit case for enhancement of the compensation awarded by the Tribunal since the claimant has not filed any documentary evidence in support of his claim seeking enhancement of the compensation and that the amount awarded by the Tribunal is just and proper and needs no enhancement and prayed to dismiss the appeal.

10. In the facts and circumstances of the case, this Court feels that the amount of Rs.20,000/- awarded by the Tribunal towards two grievous injuries is very meager. Therefore, this Court is inclined to enhance the same to Rs.30,000/-. Since the claimant was admitted in Pragathi Nursing Home, Nizamabad,

from 15.08.1997 to 09.09.1997, this Court feels that it would be just and appropriate to award an amount of Rs.3,000/- towards Attendant Charges and Rs.2,000/- towards extra nourishment. Except the said modification, the rest of the award passed by the Tribunal remains the same. Therefore, the total compensation under various heads comes as under:

Sl.No.	Name of Head	Awarded by the Tribunal	Awarded by this Court
01.	Two grievous injuries	Rs.20,000/-	Rs.30,000/-
02.	One simple injury	Rs.2,000/-	Rs.2,000/-
03.	Pain & suffering	Rs.3,000/-	Rs.3,000/-
04.	Attendant charges	-	Rs.3,000/-
05.	Extra nourishment	-	Rs.2,000/-
TOTAL		Rs.25,000/-	Rs.40,000/-

11. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.25,000/- to Rs.40,000/- payable by respondents 1 to 3 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. 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: 20th September, 2019
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