

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.351 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 16.12.2005 passed in O.P.No.345 of 2004 by the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Karimnagar (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 13.12.2003, the petitioner boarded an auto bearing No.AP-15V-8858 at Elkathurthy and on the way, when the auto reached near Damera cross road, the driver of the auto drove it in a rash and negligent manner with high speed and lost control over the auto and dashed against another auto bearing No.AP 36V-6582 and the auto turned turtle. As a result, he received injuries on his left knee, right knee, right lower abdomen, fracture of metacarpal, fracture of mandible on right lower jaw. Immediately after the accident, the petitioner was shifted to Aditya Multi Speciality Hospital, Hanamkonda, where he was treated by Dr.K.Ram Kumar Reddy from 13.12.2003 to 26.12.2003, i.e., for 14 days and thereafter he was referred to M.G.M. Hospital, Warangal, on 27.12.2003, and was treated as in-patient till 29.01.2004 and an operation was conducted on

his fracture injury and incurred Rs.35,000/- towards treatment and medicine charges. The accident occurred due to the rash and negligent driving of the 1st respondent. The 2nd respondent is the owner of the crime vehicle and the 3rd respondent is the insurer of the crime vehicle. Hence, the petitioner filed the claim petition claiming a compensation of Rs.1,50,000/-, payable by all the respondents jointly and severally.

4 Before the Tribunal, respondents 1 & 2 remained *ex parte*. Respondent No.3 filed counter 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 R.W.1 and the documentary evidence of Exs.A-1 to A-9 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the 1st respondent and awarded total compensation of Rs.36,490/- and rounded off the same to Rs.36,500/- i.e., Rs.9,000/- towards loss of earning, Rs.1,000/- towards transportation charges, Rs.2,000/- towards extra nourishment, Rs.1,640/- towards purchase of medicines, Rs.11,850/- towards treatment charges, Rs.9,000/- towards pain & suffering and Rs.2,000/- towards mental agony, with interest @ 7.5% per annum from the date of petition till the date of deposit, payable by respondents 1 to 3. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. In spite of service of notice, there is no representation for the 3rd respondent/insurance company and even when the matter is listed today and the name of the National Insurance Company Limited, Warangal, is printed in the cause list, there is no representation for the 3rd respondent/insurance company. Since this matter pertains to the year 2006 and the accident has taken place on 13.12.2003, dodging the matter on one pretext or the other is of no purpose. Hence, the matter is decided on the strength of the evidence and material available on record and after hearing Sri K.Vasudeva Reddy, learned counsel appearing for the appellant and perusing the material record.

7. Admittedly, the injuries incurred by the petitioner in the above said accident are grievous in nature and in the light of the evidence of P.W.1 and exhibits marked, the Tribunal has awarded just compensation, but however, the Tribunal has not appreciated the fact with regard to the surgical fracture to which the claimant has got operated and also another fracture, which was treated by way of applying plaster of paris and the claimant was bed ridden thereafter for a period of three (03) months. Therefore, this Court feels that it would be just and appropriate to grant Rs.25,000/- towards one surgical injury and Rs.5,000/- towards the other injury. Accordingly, the total compensation comes to Rs.66,500/- (Rs.36,500/- + Rs.25,000/- + Rs.5,000/-). Except the said enhancement, rest of the award remains unchanged.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.36,500/- to Rs.66,500/-, 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 the date of 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: 22nd October, 2019

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