

HONOURABLE SRI JUSTICE T. AMARNATH GOUD

M.A.C.M.A. No.1258 OF 2012

JUDGMENT:

Questioning liability and quantum of compensation awarded by the learned Chairman, Motor Accident Claims Tribunal - cum - Special Sessions Judge for Cases under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act - cum - Additional District Judge, Ranga Reddy District at L.B. Nagar, Hyderabad, by the award dated 01.08.2011 in M.V.O.P. No.16 of 2007, M/s. National Insurance Company Limited, preferred this Motor Accidents Civil Miscellaneous Appeal.

2. Heard learned counsel on either side and perused the material on record.

3. It is a case of injuries. Claimant, who is respondent No.1 herein, sustained injuries viz., (i) crush injury of left foot and leg exposing crushed tarsal bones and metacarpal bones, (ii) deformity of left middle finger with lacerated wound on dorsal aspect, (iii) multiple fractures in the metatarsal and tarsal bones, (iv) fractures of tibia middle 3rd and (v) fractures fibula upper 3rd, and due to the said injuries, the claimant sustained 50% disability. He laid claim for Rs.6.00 lakhs before the Tribunal. The Tribunal framed relevant issues for (i) fixing liability for causing accident, and (ii) for award of compensation, if any, entitled to by the claimant and from whom. The claimant besides examining himself as PW.1, also examined the doctor as PW.2 and marked Exs.A-1 to A-10 to substantiate his case, whereas, the insurer did not adduce any oral evidence to rebut the case

of the claimant except marking a copy of insurance policy as Ex.B.1. So, the Tribunal, on an elaborate consideration of oral and documentary evidence on record produced by the claimant, held that the accident had occurred due to rash and negligent driving of the rider of the motorcycle, and considering the fractures and other grievous injuries sustained by the claimant including disability at 50%, awarded a sum of Rs.4,56,639/- towards compensation as against the claim of Rs.5,00,000/- made by the claimant. Assailing the same, the Insurer preferred this appeal contending that the amount awarded by the Tribunal is excessive and the same has to be reduced on the ground that the Tribunal applied multiplier '16' instead of '15' for the age of 38 years while computing 50% disability and that the interest granted at 7.5% per annum is on higher side.

4. Admittedly, taking place of accident and sustaining injuries by the claimant in the said accident including disability are not in dispute and, therefore, needs no interference on the said finding arrived at by the Tribunal.

5. As far as quantum of compensation awarded by the Tribunal is concerned, the only dispute from the side of insurer is that the Tribunal applied multiplier '16' wrongly instead of '15' while considering the age of the claimant as 38 years as on the date of the accident. The said contention of the learned counsel for the insurer is acceptable one in view of the decision of the Apex Court in **Sarla**

Verma v. Delhi Transport Corporation¹, wherein for a person in the age group of 36 - 40 years, relevant multiplier is '15'. Therefore, the relevant multiplier '15' has to be applied in the present case instead of '16' applied by the Tribunal. There is no dispute regarding the annual income taken by the Tribunal. On perusal of the award, the Tribunal has taken the annual income of the claimant at Rs.52,495/-, while the disability at 50%, which needs no interference. Therefore, when the said annual income of the claimant is multiplicand with the multiplier '15' for 50% disability, it comes to Rs.3,93,713/- [Rs.52,495/- x 15 x 50%] and, accordingly, the same is reduced to Rs.3,93,713/- from Rs.4,19,960/- granted by the Tribunal.

6. As regards the other amounts granted by the Tribunal, viz., Rs.10,000/- towards grievous injuries, Rs.2,000/- towards simple injuries, Rs.21,679/- towards medical expenditure, Rs.2,000/- towards extra nourishment and Rs.1,000/- towards transport to hospital, the Tribunal having considered the evidence on record granted the said amounts and needs no interference, and so also the rate of interest at 7.5% per annum and, therefore, the same are maintained. Thus, in all, the claimant - respondent No.1 is entitled to Rs.4,30,392/- and, accordingly, the compensation amount is reduced to Rs.4,30,392/- from Rs.4,56,639/- awarded by the Tribunal.

7. The Motor Accidents Civil Miscellaneous Appeal is accordingly allowed in part, and the order and decree, dated

¹. 2009 ACJ 1298

01.08.2011 in M.V.O.P. No.16 of 2007, passed by the Tribunal is modified to the extent indicated in the above. However, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand closed.

T. AMARNATH GOUD, J

August 2, 2019.
Mgr

