

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1494 of 2012

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 16-08-2011 passed in O.P.No.483 of 2005 by the Motor Vehicle Accidents Claims Tribunal-cum-III Additional District Judge, (FTC), Nizamabad (for short, the Tribunal).

2. The brief facts of the case are that on 05-12-2004 at 9 pm, the 1st appellant/claimant was traveling on his Suzuki motorcycle bearing No.AP 25J 2817 from Gangasthan to his house, and when he reached in front of Sravya Garden, Nizamabad, suddenly one Maruthi Car bearing No.AP-13-A-1095 driven by its driver in a rash and negligent manner in a high speed, came in opposite direction and dashed to the motorcycle of the 1st appellant, as a result of which, the 1st appellant fell down and received fracture to left scalp i.e. left fronto temporal parietal acute SDH with right parietal to occipital EDH head injury and other multiple and grievous injuries on various parts of the body. Immediately he was shifted to Government Hospital, Nizamabad and again shifted to NIMS hospital, Hyderabad, and the concerned doctors treated the 1st appellant for his fracture injuries. So far the 1st appellant incurred an amount of Rs.1,50,000/- towards medical expenditure and special diet and attendant, but since there is no progress in his health, the 1st appellant is still getting

pains. Hence, he filed the claim petition claiming compensation of Rs.4,00,000/- towards the injuries sustained by him.

3. During the pendency of the claim petition, the 1st appellant died and the 2nd appellant-wife of the deceased was impleaded as 2nd respondent in the claim petition vide orders dated 11-11-2010 in I.A.No.463 of 2010.

4. In the claim petition, the 2nd respondent-insurer 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.

5. 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 on the part of the driver of the Maruthi Car bearing No.AP-13-A-1095 only. However, holding that though the 1st appellant/claimant sustained injuries in the accident dated 05-12-2004, but it cannot be said that he died due to the said accident only since he died about three years prior to the evidence of P.W.2 in another accident with the lorry. Therefore, based on the evidence of discharge summary under Ex.A-11, X rays and other medical evidence, it held that the 2nd appellant is entitled to the compensation of Rs.75,000/- only i.e. Rs.15,000/- towards one grievous injury and Rs.60,000/- towards medical expenses. Accordingly, it partly allowed the claim petition granting compensation of Rs.75,000/- with proportionate costs and interest at 6% per annum.

6. Dissatisfied with the quantum of compensation, the appellants/claimants filed the present appeal, seeking for enhancement of the compensation.

7. Heard the learned counsel for the appellants-claimants and the learned Standing Counsel for the 2nd respondent-insurer.

8. Learned counsel for the appellants-claimants contends that the Tribunal erred in awarding compensation of Rs.75,000/- since the 1st appellant was proceeding on his own motorcycle and that there was no negligence on his part. The Tribunal also did not award any compensation towards transportation, attendant charges and extra nourishment and loss of earnings etc., Hence, the Tribunal did not grant sufficient compensation and therefore, he prays to allow the appeal by enhancing the compensation as claimed in the claim petition.

9. Learned counsel for the 2nd respondent-insurer contends that there is no discussion regarding granting of Rs.15,000/- towards grievous injury and Rs.60,000/- towards medical expenses. However, the Tribunal granted compensation more than that of the actual entitlement. Hence, the judgment of the Tribunal need not be interfered with.

10. Admittedly, there is no discussion with regard to the granting of Rs.15,000/- towards grievous injury and Rs.60,000/- towards medical expenses. Any how, the 1st appellant sustained fracture to left scalp i.e. left fronto temporal parietal acute SDH with right parietal to occipital EDH head injury and other multiple and grievous injuries on various parts of the body.

In this regard, P.W.3, Dr. V.Devidas, was examined and the Tribunal has granted compensation as referred to above. Further, since the 1st appellant-deceased claimed that he is electrician, though there is no proof of income filed, an amount of Rs.4,000/- can be taken into consideration as notional amount. Therefore, since, this Court feels that the amount awarded is meager, it would be appropriate to enhance the compensation under various heads as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	One grievous injury	Rs.15,000/-	Rs.25,000/-
02.	Medical expenses	Rs.60,000/-	Rs.60,000/-
03.	Transportation	Nil	Rs. 1,000/-
04.	Extra nourishment	Nil	Rs. 2,000/-
05.	Attendant Charges	Nil	Rs. 1,500/-
06.	Loss of income	Nil	Rs. 4,000/-
Total		Rs.75,000/-	Rs.93,500/-

11. In the result, appeal is allowed in part by enhancing the compensation awarded by the Tribunal from Rs.75,000/- to Rs.93,500/- (Rupees Ninety Three Thousand and Five Hundred only). The enhanced amount of compensation shall carry interest at 7% per annum. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the 2nd appellant is permitted to withdraw the entire amount. No costs.

12. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 21.06.2019

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