

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. Nos.2387 & 4696 OF 2008

COMMON JUDGMENT:

Since both the appeals arise out of an order passed in O.P.No.42 of 2005, dated 10-03-2008, on the file of the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge at Warangal, (for short, the Tribunal), they are being disposed of by this common judgment.

M.A.C.M.A.No.2387 OF 2008:

2. This appeal is filed by the appellant/claimant on the ground that the Tribunal awarded meager compensation of Rs.4,02,625/- against the claim of Rs.9,00,000/- for the injuries sustained by him in a motor accident.

M.A.C.M.A.No.4696 OF 2008:

3. This appeal is filed by the appellant/insurance company, on the ground that the driver of the car was not responsible for the accident, but the deceased was alone responsible and that it has no liability to pay the compensation.

4. For the purpose of convenience, the parties are hereinafter referred to as they are arrayed in M.A.C.M.A.No.2387 of 2008.

5. The brief facts of the case are that on 27.04.2004 at about 9.00 pm., while the appellant and his sister were proceeding on

their TVS Victor motorcycle towards Hanamkonda Chowrastha, and when they reached near Alankar Theatre Bridge, car bearing No.AP9L 9099 came in the opposite direction in rash and negligent manner and hit the motorcycle, as a result of which, the appellant sustained crush injuries to his right leg and other grievous injuries. He filed the aforesaid OP against respondent Nos.1 and 2, owner and insurer of the aforesaid car, respectively, claiming compensation of Rs.9,00,000/- for the injuries sustained by him.

6. Sri C.A.R. Seshagiri Rao, learned counsel for the appellant, submitted that the Tribunal erred in taking the income of the appellant at Rs.15,000/- per annum, instead of taking the notional income at Rs.3,000/- per month. He further submitted that though the appellant filed disability certificate to the effect that he suffered 53% disability, the Tribunal erroneously taken the disability @ 48% and sought to enhance the compensation.

7. Sri N.Mohan Krishna, learned standing counsel for respondent No.1-insurance company, submitted that there is contributory negligence on the part of the appellant in the accident and hence respondent is not liable to pay the compensation and sought to set aside the order of the Tribunal.

8. Admittedly, the appellant sustained multiple fracture injuries apart from other grievous injuries, for which, he has taken two months treatment as in-patient. Though the disability certificate filed by the appellant was not marked, the doctor who issued the

same was examined and he admitted that the disability of the appellant is 53%. Therefore, this Court is inclined to accept the disability of the appellant at 53%, by taking the notional income of the appellant at Rs.3,000/- per month.

9. In the facts and circumstances of the case, this Court feels that 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.	Loss of earnings (1 year)	---	Rs.36,000/-
02.	Transportation charges	Rs.10,000/-	Rs.20,000/-
03.	Extra-nourishment	Rs.1,88,625/-	Rs.1,88,625/-
04.	Damages to clothing	Rs.1,000/-	Rs.1,000/-
05.	Miscellaneous expenses	Rs.1,000/-	Rs.1,000/-
06.	Pain and suffering	Rs.30,000/-	Rs.30,000/-
07.	Partial permanent disability	Rs.72,000/-	Rs.3,75,840/-
TOTAL		Rs.4,02,625/-	Rs.6,52,465/-

10. In the result, M.A.C.M.A.No.2387 of 2008 is partly allowed and M.A.C.M.A.No.4696 of 2008 is dismissed by enhancing the compensation amount awarded by the Tribunal from Rs.4,02,625/- to Rs.6,52,465/-. The enhanced amount shall carry interest @ 7.5% per annum. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 17.06.2019
TJMR