

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1319 OF 2008

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 21.05.2005 passed in O.P.No.1303 of 1998 by the Motor Accidents Claims Tribunal (I Additional District Judge), at Khammam (for short, the Tribunal).

2. The brief facts of the case are that the appellant is a resident of Manugur of Khammam Town and he is a student. On 30.06.1998 at about 24.00 hours, while the appellant along with others going from Manuguru to Shiridi in Tata Sumo Vehicle bearing No.AP 20/C 8586 and when they reached near Julurpad Village, the Tata Sumo vehicle driven by the 1st respondent in rash and negligent manner dashed against the stationed lorry bearing No.AP 16T 6355, due to which the appellant sustained major injury to head and his neuro system is damaged. The appellant is a student and due to the accident, he became unsound mind and completely disabled, due to which he could not prosecute his studies. In view of the injuries and loss caused to the appellant, originally he claimed compensation of Rs.5,00,000/- towards general and special damages against respondents 1 to 3, being the driver, owner and insurer of the offending Tata Sumo vehicle, but as per the orders passed in IA.No.1858 of 2004, dated 04.01.2005, the claim of compensation is enhanced to Rs.20,00,000/-.

3. Before the Tribunal, the claim against the 1st respondent was dismissed as not pressed and the 2nd respondent remained *ex parte*. The 3rd respondent 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.

4. After considering the evidence produced by the parties, the Tribunal granted a total compensation of Rs.4,50,000/- i.e., Rs.3,50,000/- towards loss of disability and Rs.1,00,000/- towards medical, transport, extra nourishment and other consequential expenses incurred by the appellant. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Mr.Rupendra Mahendra, learned counsel for the appellant, submitted that the appellant sustained 56% disability. He further submitted that to prove the disability, the appellant filed Ex.A.16-disability certificate issued by Dr.P.Ranganadham, the doctor who treated the appellant, who was examined as P.W.2 and deposed about 56% disability and the treatment underwent by the appellant. He further submitted that due to the disability, the appellant has got mental retardation and he is unable to continue his future education and he is in need of an attendant, but the appellant has granted a meager amount and sought to enhance the compensation under that head.

7. Smt S.A.V.Ratnam, learned Standing Counsel for the 3rd respondent, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

8. In the facts and circumstances of the case, this Court feels that it would be appropriate to take into consideration the disability of the appellant at 56%. Since the appellant is a student, this Court is inclined to fix the monthly notional income of the appellant @ Rs.4,000/- per month. Therefore, his annual income comes to Rs.48,000/- (Rs.4,000/- x 12 months). Since the age of the appellant at the time of the accident is 18 years, the multiplier of '18' is applicable as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**¹. Since this Court fixed the disability of the appellant at 56%, the compensation under the head 'loss of disability' comes to Rs.4,83,840/- (Rs.48,000/- x 18 x 56%). Under the head of 'Pain & Suffering', this Court is inclined to grant an amount of Rs.1,00,000/-. The amount of Rs.1,00,000/- as awarded by the Tribunal towards 'Medical, Transport & Extra Nourishment and other consequential expenses' remains un-changed. Towards Attendant charges, this Court is inclined to grant an amount of Rs.3,000/-. Therefore, the total compensation comes to Rs.6,86,840/-.

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Loss of Disability	Rs.3,50,000/-	Rs.4,83,840/-
02.	Medical, Transport, Extra Nourishment & other consequential expenses	Rs.1,00,000/-	Rs.1,00,000/-

¹ (2009) 6 SCC 121

03.	Pain & Suffering	-	Rs.1,00,000/-
04.	Attendant charges	-	Rs.3,000/-
TOTAL		Rs.4,50,000/-	Rs.6,86,840/-

Except the said modification, the order of the Tribunal remains unchanged.

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.4,50,000/- to Rs.6,86,840/-. The enhanced amount shall carry interest @ 7.5% per annum. No costs.

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

T.AMARNATH GOUD, J

Date: 15th July, 2019

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