

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2223 OF 2009

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Judgment and Decree dated 26.02.2007 passed in O.P.No.1191 of 2002 by the Motor Accidents Claims Tribunal (III Additional District Judge) (Fast Track Court), Nizamabad (for short, the Tribunal).

2. The brief facts of the case are that on 01.08.2002 at about 4.30 pm., while the appellant was going on his cycle from Navipet to Jankampet, and when he reached the limits of Abangapatnam Village, Hero Honda motorcycle bearing No.AP25H 3390 came at high speed in a rash and negligent manner in opposite direction and hit the cycle. In the said accident, the appellant sustained fractures to both bones of right and left legs, chest bone, skull and other multiple injuries. He filed aforesaid OP against respondent Nos.1 and 2, owner and insurer of motorcycle, claiming compensation of Rs.2,00,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 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 oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the

motorcycle and awarded total compensation of Rs.19,000/- with interest @ 7.5% per annum, i.e., Rs.5,000/- towards fracture, Rs.3,000/- towards simple injuries, Rs.3,000/- towards cost of treatment, Rs.2,000/- towards medical bills, Rs.2,000/- towards pain and suffering, Rs.1,000/- towards transport charges and Rs.3,000/- towards loss of earnings. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. A perusal of the record, it reveals that P.W.2, the doctor who treated the appellant, stated that he examined the appellant on 01.08.2002 and found fracture of right tibia middle third and an abrasion over the right leg and right heel; that the appellant was admitted on 01.08.2002 and discharged on 03.08.2002 and that the appellant sustained a fracture injury and two simple injuries. In view of the above evidence, this Court feels that the amount of Rs.5,000/- granted by the Tribunal towards fracture is meager and the same is enhanced to Rs.25,000/-. Except the said enhancement, the Judgment of the Tribunal remains unchanged.

7. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.19,000/- to Rs.39,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of

claim petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 16.07.2019
TJMR

