

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3692 of 2005

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 21-06-2004 passed in O.P.No.654 of 2001 by the MACT-cum-IX Additional Chief Judge (F.T.C.), City Civil Courts, Hyderabad (for short, the Tribunal).

2. Brief facts of the case are that on 27-12-2000 at about 2.30 pm, when the claimant was proceeding on his cycle to go to Narayanaguda to get the blood report of his daughter, and when he reached the RTC hospital, near Tarnaka, one Tata Sumo bearing No.AP 11E 7556 came from his behind and hit him, due to which, he sustained fractures to his left shoulder and left hip. Hence, he filed the claim petition claiming compensation of Rs.1.00 lakhs for the injuries sustained by him against the respondent Nos.1 and 2 who are owner and insurer of the crime vehicle.

3. 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.

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 on the part of the driver of the

crime vehicle only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.25,900/- i.e. Rs.10,000/- each towards two fractures i.e. Rs.20,000/-; Rs.5,400/- towards loss of income for a period of two months and Rs.500/- towards transportation. Accordingly, it partly allowed the claim petition granting compensation of Rs.25,900/- with interest at 9% per annum through out.

5. Dissatisfied with the quantum of compensation, the appellant/claimant filed the present appeal, seeking for enhancement of the compensation.

6. Heard the learned counsel for the appellant-claimant.

7. Learned counsel for the appellant-claimant contends that the Tribunal ignored in awarding compensation towards pain and suffering as the claimant sustained grievous multiple fracture injuries. Hence, he prayed for fair compensation.

8. As seen from the order of the Tribunal, the Tribunal has rightly granted compensation to the claimant under various heads. However, as contended by the learned counsel for the claimant, since the claimant sustained fracture injuries and had pain and suffering, it is just and proper to grant an amount of Rs.5,000/- towards pain and suffering.

9. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged.

Therefore, the claimant is granted total compensation of Rs.30,900/- (Rs.20000/- + Rs.5,400/- + Rs.500/- + Rs.5,000/-).

10. In the result, the appeal is allowed in part by enhancing the compensation awarded by the Tribunal from Rs.25,900/- to Rs.30,900/- (Rupees Thirty Thousand and Nine Hundred only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The respondents are directed to deposit the enhanced amount jointly and severally along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is permitted to withdraw the entire amount. No costs.

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

JUSTICE T.AMARNATH GOUD

Date: 19.09.2019
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