

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2215 of 2008

JUDGMENT:

The appellant-claimant filed this appeal against the order and decree dated 13.02.2008 passed in O.P.No.118 of 2006 by the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge-cum-XXII Additional Chief Judge, City Criminal Courts, Hyderabad

2. The brief facts of the case are that on 05.01.2006 at about 8.00 AM., while the petitioner was proceeding on a scooter bearing No.AP-5-2938 as pillion rider from Raghavendra Gardens to Ravirala side, one JCB vehicle bearing No.AP-29-J-3010 driven by its driver in a rash and negligent manner and dashed against the scooter, due to which, the petitioner sustained multiple injuries. Immediately, he was shifted to Osmania General Hospital, where an operation was conducted to his left leg and he sustained permanent disability. Hence, the petitioner filed aforesaid O.P., claiming compensation of Rs.2,00,000/- for the injuries sustained by him in the accident.

3. The 1st respondent-owner of crime vehicle remained *ex parte*. The 2nd respondent-Insurer filed counter denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the petitioner is highly excessive and exorbitant and sought to dismiss the petition.

4. During the course of trial, the petitioner examined P.Ws.1 and 2 and got marked Exs.A1 to A9. On behalf of the respondents, no oral evidence was adduced, but Ex.B1-copy of insurance policy was marked.

5. After considering the material on record and the evidence adduced by the parties, the Court below allowed the O.P. in part awarding compensation of Rs.1,59,000/- with interest at 6% p.a. from the date of petition till the date of realization payable by respondents 1 and 2 jointly and severally. Aggrieved by the said quantum of compensation, the petitioner preferred the present appeal.

6. Heard Sri B. Venkat Reddy, learned counsel for the appellant/claimant and Sri K.S.N.Murthy, learned Standing Counsel for respondent No.2.

7. A perusal of the order impugned would disclose that the Court below, while granting compensation towards loss of income, has erred in deducting 1/3rd towards personal expenses of the claimant from his monthly income of Rs.3,000/- and that as this is a case of injuries, the said deduction is not permissible under law and that 1/3rd can be deducted in case of death. Since the monthly income of the claimant was at Rs.3,000/-, as assessed by the Court below, his annual income would come to Rs.36,000/-. Though the claimant was aged about 42 years at the time of the accident, the Court below has wrongly applied multiplier as '15' in stead of '14' as per the decision

of the Apex Court in **Sarla Verma v Delhi Transport Corporation**¹. Further, the petitioner has sustained permanent disability at 45% as per Ex.A9-disability certificate. Therefore, the loss of income would come to Rs.2,26,800/- (Rs.36,000/-x14x45%). In addition to it, as the compensation of Rs.5,000/- towards pain and suffering awarded by the Court below is meager, the same is enhanced to Rs.10,000/-. The compensation of Rs.10,000/- awarded by the Court below towards medical and other incidental expenses is not altered. Thus, the total compensation of Rs.2,46,800/- is awarded to the claimant for the injuries sustained by him in the accident.

8. Accordingly, the appeal is allowed, by enhancing the compensation awarded by the Court below from Rs.1,59,000/- to Rs.2,46,800/-. The enhanced amount shall be paid along with interest @ 7.5% p.a., from the date of filing of this appeal to its realization and that as the claim is Rs.2,00,000/-, the claimant shall pay the deficit Court fee before the Court below. Miscellaneous petitions, if any pending in this appeal, shall stand closed. No order as to costs.

T.AMARNATH GOUD, J

8th July, 2019

sj

¹ 2009(6) SCC 121