

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.42 OF 2008

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 26.07.2007 passed in O.P.No.398 of 2003 by the V Additional Metropolitan Sessions Judge (Mahila Court)-cum-XIX Additional Chief Judge, City Criminal Courts, at Hyderabad (for short, Tribunal).

2. The brief facts of the case are that on 13.09.2002 when the appellant/injured along with two others were proceeding in a car from Tank bund towards Vimal Nagar and when they reached under CTO fly over bridge, S.P. Road, Secunderabad, one lorry bearing No.KA 32A 8445 came from Bowenpally proceeding towards Begumpet side in a rash and negligent manner and dashed against the car, as a result, the appellant sustained fracture injury to his right hand forearm. Earlier to the accident, the appellant was doing agriculture work and milk business and earning Rs.5,000/- and because of the injuries, he lost the said income. Hence, the appellant/injured filed the present claim petition claiming a compensation of Rs.2,00,000/- . The 1st respondent is the owner of the offending lorry bearing No.KA 32A 8445 and the 2nd respondent is its insurer.

3. Before the Tribunal, the 1st respondent remained *ex parte*. The 2nd respondent filed a 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 total compensation Rs.1,35,000/-, with interest @ 7% per annum from the date of petition till realization. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. The Tribunal has not appreciated the evidence of P.W.2 in fixing the disability of the appellant/injured at 100%. Admittedly, the claimant has not filed any documentary evidence in support of his claim to speak on the disability. In the absence of any documentary evidence, the ratio laid down for fixing the disability and awarding compensation is not opposed. The fact of disability as per the evidence of P.W.2 cannot be ruled out as the claimant is doing agriculture and milk vending business and the injury is caused to the right hand forearm, which makes him not to perform his day-to-day work effectively. Hence, this Court feels that the notional amount of Rs.50,000/-, if awarded towards the loss of disability, would be just and reasonable and thus, the same is accordingly awarded. Except the said enhancement, rest of the award remains un-changed.

8. Therefore, the total compensation under various heads is as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Pain and suffering	Rs.30,000/-	Rs.30,000/-
02.	Medical Expenditure	Rs.41,636/-	Rs.41,636/-
03.	Incidental Expenditure	Rs.3,000/-	Rs.3,000/-
04.	Loss of Future Amenities of life	Rs.10,000/-	Rs.10,000/-
05.	Loss of Income	Rs.6,750/-	Rs.6,750/-
06.	Loss of Future Income	Rs.43,200/-	Rs.43,200/-
07.	Loss of disability	-	Rs.50,000/-
TOTAL		Rs.1,34,586/-	Rs.1,84,586/-

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.1,35,000/- to Rs.1,84,586/- and the enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization.

Miscellaneous petitions pending, if any, shall stand closed.

No costs.

T.AMARNATH GOUD, J

Date: 22nd July, 2019

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