

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 1051 of 2011

JUDGMENT:

This appeal is filed aggrieved by the award and decree dated 21.02.2011 in O.P.No.1044 of 2008 passed by the XXI Additional Chief Judge-cum-VII Additional Metropolitan Sessions Judge, Hyderabad, for enhancement of compensation.

Learned counsel for the claimant contended that the compensation granted by the tribunal is very meager as the claimant sustained fracture of both bones of right leg, fracture of left hand, fracture of left elbow, head injury, deformity of forehead, laceration and abrasion and other injuries all over the body and that he spent huge amounts towards medical expenses and taking follow-up treatment and that he lost 100% earning capacity as he is not in a position to move from the bed and hence, prayed to grant just compensation as per the decisions of the Apex Court.

Learned standing counsel for the Insurance Company contended that the order passed by the tribunal is well considered and needs no interference of this Court and prayed to dismiss the appeal.

It is the case of injuries. Learned counsel for the claimant contended that in the light of Ex.A.7-disability certificate, the claimant is entitled for compensation under the head of disability. In the interest of justice and in the light of decision of the Apex

Court in **Raj Kumar v Ajay Kumar**¹, wherein it was held that the provision of the motor Vehicle Act, 1988 makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or the Tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned, the tribunal has to look into the matter and pass appropriate orders with regard to disability etc. after conducting trial and examining necessary documents, if any and this Court in appeal cannot appreciate the same and accordingly, the matter is liable to be remanded to the tribunal for fresh disposal.

In view of the above, the appeal is allowed setting aside the award and decree dated 21.02.2011 in O.P.No.1044 of 2008 passed by the XXI Additional Chief Judge-cum-VII Additional

¹ (2011) 1 SCC 343

Metropolitan Sessions Judge, Hyderabad and remanded for fresh disposal directing the tribunal to dispose of O.P. on merits, after giving opportunity to both sides, in accordance with law. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 30.12.2019
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