

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.1472 OF 2010

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 31.05.2010 passed in O.P.No.216 of 2009 by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Medak at Sanga Reddy (for short, the Tribunal).

2. The brief facts of the case are that on 11.03.2009, the appellant and one Anil Kumar Goud went to Donthi Village to attend their work and at about 2.00 p.m., when they were returning from Donthi to Shivampet Village on Motor Cycle bearing No.AP 23H 19 and when they reached near Donthi bus stop, one lorry bearing No.AP 27W 9969 came at a high speed in a rash and negligent manner and dashed the motor cycle by coming extreme right side in opposite direction, due to which both of them received severe injuries and immediately they were shifted to Hyderabad Hospitals, but on the way Anil Kumar Goud died. In the said accident, the appellant sustained fracture of right femur, fracture of right tibia, fracture of mandible, fracture of right clavicle, injury on head and other parts of the body. The appellant has completed Diploma in Computer Applications and was working as private employee and drawing salary of Rs.6,000/- per month. He filed aforesaid OP claiming compensation of Rs.6,00,000/- against respondents 1 and 2, the owner and insurer of the offending vehicle.

3. Before the Tribunal, the first respondent remained *ex parte*. The second respondent 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 evidence produced by the parties, the Tribunal granted a total sum of Rs.1,36,756/- i.e., Rs.25,000/- towards pain and suffering, Rs.1,06,756/- towards medical bills and Rs.5,000/- towards loss of past and future earnings, notional extra nourishment, attendant charges, transport charges etc. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard Ms.B.Shalini Saxena, learned counsel appearing for Sri Palle Sri Harinath, learned counsel for the appellant and Sri N.J.Sunil Kumar, learned Standing Counsel appearing for the 2nd respondent/insurance company.

6. In the facts and circumstances of the case and in the light of the evidence of P.W.3-Dr.T.Dasharatharam Reddy and Exs.A-7, A-8, A-10, A-11 & A-12, this Court feels that the total medical expenditure of Rs.2,13,513/-, which was incurred by the appellant has to be granted to the appellant. Therefore, this Court is inclined to award the same towards medical expenditure. Insofar as loss of past and future earnings is concerned, admittedly in the light of Exs.A-13 &

A-14, the appellant has completed Diploma in Computer Applications and he is a qualified software person and because of the accident and surgery underwent by the appellant, it may be presumed that the appellant has to take at least three months bed rest because of placement of implants on his right femur and right tibia bones. Thereafter, the implants are supposed to be removed by performing another surgery. Therefore, this Court feels that at least notional income of Rs.4,000/- per month has to be taken into consideration for a period of three (03) months bed rest. Therefore, this Court is inclined to award an amount of Rs.12,000/- (Rs.4,000/- x 3 months) under the head of loss of past and future earnings. Insofar as attendant charges is concerned, this Court is inclined to grant a sum of Rs.100/- per day for a period of ten days, which comes to Rs.1,000/- (Rs.100/- x 10 days). Insofar as extra nourishment charges is concerned, this Court is inclined to grant an amount of Rs.1,500/- per month. Therefore, for a period of three (03) months, the extra nourishment charges amount comes to Rs.4,500/- (Rs.1,500/- x 3 months). Insofar as the transport charges is concerned, this Court is inclined to grant an amount of Rs.2,000/-. In the light of the evidence of P.W.3-Dr.T.Dasharatham Reddy, since the appellant has to undergo second surgery, this Court is inclined to award an amount of Rs.75,000/- towards second surgery. The amount of Rs.25,000/- awarded by the Tribunal towards pain and suffering

for fracture of right hip joint remains the same. Thus, the total compensation under various heads comes as under:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Pain and suffering for fracture of Right Hip Joint	Rs.25,000/-	Rs.25,000/-
02.	Medical Expenditure	Rs.1,06,756/-	Rs.2,13,513/-
03.	Loss of past and future earnings	Rs.5,000/-	Rs.12,000/-
04.	Notional extra nourishment		Rs.4,500/-
05.	Attendant charges		Rs.1,000/-
06.	Transport charges		Rs.2,000/-
07.	Second Surgery	-	Rs.75,000/-
TOTAL		Rs.1,36,756/-	Rs.3,33,013/-

Except the said modification, rest of the award remains un-changed.

7. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.1,36,756/- to Rs.3,33,013/- and the enhanced compensation shall carry interest @ 7.5% per annum from the date of petition till realization. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 10th July, 2019

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