

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.447 of 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 27-07-2010 passed in M.V.O.P.No.1544 of 2006 by the Additional Metropolitan Sessions Judge, JHCBBC –cum- Additional Family Court-cum-XXIII Additional Chief Judge, Hyderabad (for short, the trial Court).

2. Brief facts of the case are that on 19-07-2005 at about 1930 hours, when the claimant was riding his motorcycle bearing No.AP-07A-0720 and when he reached near Qutubullapur Cross Road, a lorry bearing No. AP-9U-3119 driven by the driver of the said lorry in a rash and negligent manner at a high speed and dashed against him, due to which, he sustained grievous injuries and became unconscious and was shifted to hospital. Hence, he filed the claim petition claiming compensation of Rs.1,50,000/- for the injuries sustained by him against the respondent Nos.1 and 2 who are the 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 trial Court 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 trial Court granted an amount of Rs.70,000/- i.e. Rs.20,000/- towards grievous injury; Rs.24,000/- towards pain and suffering; Rs.5,000/- towards loss of earning; and Rs.21,000/- towards medical expenditure. Accordingly, it partly allowed the claim petition granting compensation of Rs.70,000/- with interest at 7.5% 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 trial Court erred in awarding meager compensation of Rs.5,000/- towards loss of earning since the claimant was advised to take rest for one more month after discharge. Therefore, the said compensation may be increased by granting two months' salary in addition to that compensation. Further, she also contends that the trial Court erred in granting meager compensation towards medical bills. Hence, she prayed for fair compensation.

8. As seen from the order of the trial Court, the Tribunal has rightly granted compensation to the claimant under various heads. However, it is important to take note that the doctor who treated the claimant advised him to take rest for a month and moreover he has already undergone for treat for more than 20 days. Taking into consideration the said fact, he is entitled to be granted two months' salary in addition to that of Rs.5,000/- towards suffering and loss of earning. Hence, he is entitled to be granted an amount of Rs.13,000/- for two months salary. Though there is a strong contention raised by the claimant with regard to the enhancement of compensation for medical bills, as there is clear discrepancy in mentioning the dates on the bills, the said contention cannot be countenanced and therefore the same is rejected.

9. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.83,000/- (Rs.70,000/- + Rs.13,000/-).

10. In the result, the appeal is allowed in part by enhancing the compensation awarded by the trial Court from Rs.70,000/- to Rs.83,000/- (Rupees Eighty Three Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The respondents are directed to deposit the enhanced amount 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: 19.08.2019
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