

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.1813 OF 2015

JUDGMENT:

This appeal is preferred by the claimant/injured questioning the order of the I Additional Metropolitan Sessions Judge-cum-XV Additional Chief Judge, Hyderabad (for short, the Court below) in O.P.No.1427 of 2008 dated 09.11.2010.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Court below in the original petition.

3. The brief facts of the case are that on 12.01.2008 at about 9.20 p.m., the petitioner was traveling along with his brother-in-law on their scooter bearing No.AP 28AD 9891 from Moosapet to Bharath Nagar to purchase some articles to his workshop and when they reached Gas Company drainage bridge, a lorry bearing No.AP 16TU 9955 came in high speed in rash and negligent manner and dashed the scooter of petitioner from behind with the result, the accident occurred and both the persons traveling on the scooter fell down and received grievous injuries and they were shifted to Gandhi Hospital and during treatment, left leg of the petitioner was amputated above knee. Prior to the accident, the petitioner was working as Turner in M/s. Durga Bhavani Engineering Works, Moosapet, and earning Rs.8,000/- per month. The

accident occurred due to the rash and negligent driving of the driver of the offending lorry. Hence, the petitioner filed the claim petition claiming compensation of Rs.17,50,000/-, payable by both the respondents, being the owner and insurer of the offending lorry.

4. In the claim petition, the 1st respondent remained *ex parte*. The 2nd respondent filed counter denying the allegations and contended that the amount claimed by the claimant is highly excessive and therefore prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 to 3 and the documentary evidence of Exs.A-1 to A-8, Exs.X-1 & X-2 and Ex.B-1, the Court below came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending lorry and awarded total compensation of Rs.8,02,000/-, i.e., Rs.50,000/- towards pain & suffering, Rs.10,000/- towards nervous shock, Rs.10,000/- towards medical expenditure, Rs.20,000/- towards artificial limb, Rs.7,02,000/- towards disability and Rs.10,000/- towards actual loss of income, with interest @ 7.5% per annum from the date of petition till the date of realization, payable by both the respondents. Aggrieved by the said order, the claimant filed the present appeal seeking enhancement of the compensation.

6. Heard Sri K.Hari Mohan Reddy, learned counsel for the claimant and Smt. I.Maamu Vani, learned standing counsel for the 2nd respondent/insurance company. Perused the material record.

7. Admittedly, insofar as the disability is concerned, as per Ex.A-6-Disability Certificate and the evidence of P.W.2, the doctor who treated the claimant, the disability of the claimant is shown as 65%. Therefore, the Court below also fixed the disability of the petitioner @ 65%. In the facts and circumstances of the case, this Court is also inclined to fix the disability of the claimant @ 65%. With regard to the income of the claimant is concerned, as per the evidence of P.W.3, under whom the claimant was working as a Turner in M/s. Durga Bhavani Engineering Works, Moosapet, stated that the claimant was earning Rs.8,000/- per month, but the Court below has erroneously taken the monthly income of the claimant @ Rs.5,000/- per month. Therefore, this Court is inclined to consider the monthly income of the claimant @ Rs.8,000/- per month. Since the age of the claimant is 30 years at the time of the accident, the multiplier applicable is '17' as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**¹, but the Court below has wrongly taken the multiplier as '18'. Therefore, the compensation under the head of 'loss of disability' comes to Rs.10,60,800/- (Rs.8,000/- X 12 X 17 X

¹ (2009) 6 SCC 121

65%). Except the above modification, the rest of the award remains un-changed. Hence, the total compensation under various heads is as follows:

Sl. No.	Name of Head	Awarded by Court below	Awarded by this Court
01.	Loss of Disability	Rs.7,02,000/-	Rs.10,60,800/-
02.	Pain & suffering	Rs.50,000/-	Rs.50,000/-
03.	Nervous shock	Rs.10,000/-	Rs.10,000/-
04.	Medical Expenditure	Rs.10,000/-	Rs.10,000/-
05.	Artificial limb	Rs.20,000/-	Rs.20,000/-
05.	Loss of income	Rs.10,000/-	Rs.10,000/-
TOTAL		Rs.8,02,000/-	Rs.11,60,800/-

8. In the result, the appeal is partly allowed enhancing the compensation amount awarded by the Court below from Rs.8,02,000/- to Rs.11,60,800/-, payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the entire amount. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 9th December, 2019
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