

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.Nos.1259 OF 2015 AND 2428 OF 2016

COMMON JUDGMENT:

M.A.C.M.A.No.1259 of 2015 is filed by the claimant and M.A.C.M.A.No.2428 of 2016 is filed by the insurance company challenging the order dated 01-05-2015 passed in O.P.No.711 of 2011, by the Motor Accident Claims Tribunal-cum-I Additional District Judge, Nalgonda (for short, the Tribunal).

2. Since both the appeals arise out of a common order, they are being disposed of by this common judgment.

3. The brief facts of the case are that on 31-12-2010, the claimant and his friend were proceeding from Cherlapally village to Nalgonda on their motorcycle bearing No.AP24AH 1592 CBZ and at about 9.30 PM., when they reached near Jella Bixam Sizing Mill at the outskirts of Cherlapally village, the driver of Tata Ace goods auto bearing No.AP28TA 5418 came from Nalgonda and proceeding towards Narketpally, which was driven by its driver in a rash and negligent manner with high speed, dashed the motorcycle, as a result of which, the claimant fell down and sustained injuries. The claimant filed the above O.P., claiming compensation of Rs.15,00,000/- for the injuries sustained by him.

4. The first respondent remained ex parte and the second respondent-insurance company filed a counter, denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the claimant is

excessive, exorbitant, imaginary and out of proportion and sought to dismiss the OP.

5. During the course of trial, the claimant examined P.Ws.1 to 3 and got marked Exs.A1 to A10. On behalf of the respondents, RW.1 was examined and Ex.B1 copy of insurance policy was marked.

6. After considering the material on record and the evidence adduced by the parties, the Tribunal allowed the O.P. in part and awarded an amount of Rs.9,78,600/- with interest at 7.5% p.a. from the date of petition till the date of realization payable by respondents 1 and 2 jointly and severally. Being aggrieved by the quantum of compensation awarded by the Tribunal, the claimant as well as the insurance company preferred the present appeals.

6. Heard.

7. A perusal of the order reveals that the Tribunal has passed a well considered order and therefore, the said order needs no interference by this Court. However, since the claimant lost eye sight due to removal of right eye ball and sustained 30% disability as per the certificate issued by the medical expert, this Court feels it just and proper to enhance the compensation of Rs.3,000/-, which was awarded under the head 'extra nourishment', to Rs.20,000/-.

8. Learned counsel for the claimant submitted that the claimant has suffered removal of right eye ball, due to which, he will face hardship in marriage prospects and sought

compensation in that regard. In the light of the judgment in **Ibrahim V. Raju and others**¹, an amount of Rs.50,000/- is granted under the head of declining prospects of marriage. Except the above modification, the award passed by the Tribunal remains unchanged.

9. Accordingly, M.A.C.M.A.No.1259 of 2015 is partly allowed by enhancing the compensation amount, as awarded by the Tribunal, from Rs.9,78,600/- to Rs.10,45,600/-, while dismissing M.A.C.M.A. No.2428 of 2016. Miscellaneous petitions pending if any shall stand closed. No order as to costs

T.AMARNATH GOUD, J

Date: 25-01-2019
Shr

¹ 2012 (3) ALD 60 (SC)