

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.482 OF 2018

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Award dated 30.11.2017 passed in M.V.O.P.No.369 of 2013 by the Court of Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that on 22.10.2012 at about 3.15 pm., while the appellant was standing on the side of the road near Telugu Talli Statute at Narsapur X Roads, Balanagar along with his friend, a lorry bearing No.AP23Y 3737 came with high speed in a rash and negligent manner and turned, as a result, back portion of the lorry dashed the appellant. In the said accident, the appellant fell down and sustained both bone comminuted fractures to his right ankle, crush injury to right leg, head injury and injury to right shoulder and blunt injuries all over the body. He filed aforesaid MVOP against respondents Nos.1 to 2, owner and insurer of aforesaid lorry, claiming compensation of Rs.10,00,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 filed 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 Tribunal came to the conclusion that the accident

occurred due to the rash and negligent driving of the driver of the lorry and awarded total compensation of Rs.3,15,000/- under various heads with interest @ 6% per annum from the date of petition till the date of realization. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Sri K.Hari Mohan Reddy, learned counsel for the appellant, submits that in the accident, the appellant sustained both bone comminuted fractures to his right ankle, crush injury to right leg, head injury and injury to right shoulder, for which, he suffered 25% disability. To prove the same, the appellant examined P.W.2, the doctor who treated him, who deposed that due to the said injuries, the appellant suffered disability at 25% and also admitted that he issued Ex.A.6-disability certificate to that effect. He further submits that when the disability is proved, the Tribunal ought to have granted the compensation by taking into consideration the income of the appellant and the percentage of disability along with future prospects, but the Tribunal, did not grant any amount under that head. He further submits that the other amounts granted by the Tribunal are also meager. Basing on the above submissions, the learned counsel seeks to enhance the compensation.

6. Sri V.Srinivasa Rao, learned Standing Counsel for respondent No.2, submits that the medical boards are not following the method of alimco manual and following Kessler guidelines while issuing the

disability certificates and hence, the Tribunal rightly rejected the claim of the appellant with regard to disability. He further submits that the Tribunal passed a well reasoned order by taking into consideration all the aspects and seeks to dismiss the appeal.

7. Insofar as the contention of the learned counsel for the appellant with regard to non-consideration of partial permanent functional disability is concerned, P.W.2 deposed that due to the said injuries, the appellant suffered partial functional disability at 25% and the deformity is calculated by following alimco manual. In the cross-examination, he deposed that medical boards are not following the method of alimco manual and following Kessler guidelines while issuing the disability certificates. Therefore, non-consideration of the partial functional disability of the appellant by the Tribunal, cannot be found fault. Apart from the same, no evidence was filed by the appellant to show her employment and to prove her income to compute the disability. However, taking into consideration the evidence of P.W.2, coupled with Ex.A.6-disability certificate, this Court is inclined to grant a notional amount of Rs.25,000/-.

8. Coming to the other heads, the Tribunal has granted Rs.1,20,000/- towards injuries, Rs.70,000/- towards medical expenses, Rs.35,000/- towards pain and sufferance, Rs.35,000/- towards loss of amenities, Rs.30,000/- towards future medical expenses, Rs.10,000/- towards transportation and extra

nourishment and Rs.15,000/- towards loss of earnings, which are reasonable and need no interference.

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.3,15,000/- to Rs.3,40,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 10.01.2020
TJMR

T.AMARNATH GOUD, J

