

THE HON'BLE SRI JUSTICE K. LAKSHMAN

M.A.C.M.A. No.1391 OF 2006

JUDGMENT:

Assailing the judgment and decree dated 26.12.2004 in O.P. No.949 of 2000 passed by the Motor Accidents Claims Tribunal - IV Additional District Judge (Fast Track Court), Nizamabad (for short 'the Tribunal'), appellant filed the present appeal.

2. Vide the aforesaid judgment, the Tribunal has awarded an amount of Rs.20,000/- towards compensation with proportionate costs and interest at 9% per annum thereon from the date of petition till the date of realization against respondent Nos.1 and 2 jointly and severally as against the claim of Rs.1,00,000/- (Rupees one lakh only) made by the appellant for the injuries he sustained in a road accident occurred on 31.05.2000.

3. Heard Mrs. K. Sarala Mahender Reddy, learned counsel for the appellant and Mr. T. Ramulu, learned counsel for respondent No.2 - Insurer.

4. The contention of the appellant is that on 31.05.2000 while he was travelling in Jeep bearing registration No.AP 01 5099 as a passenger from Bhainsa to Pardi village and when it reached Gundegaon village at about 8.30 p.m. driver of the jeep drove it in a rash and negligent manner and dashed to tractor-trailer bearing registration No.AP 16U 6760 and 6761, due to which, the appellant

sustained fracture injuries. Immediately he was shifted to hospital for treatment wherein he incurred medical expenses. According to him, prior to the accident, he was hale and healthy. On account of accident, he developed regular head-ache and lost concentration and memory power and his eye sight was affected. He is not in a position to attend his agriculture operations and, therefore, laid a claim petition under Section 166 (1) (a) of the Motor Vehicles Act, 1988 seeking an amount of Rs.1,50,000/- as compensation against respondent Nos.1 and 2, owner and insurer of the aforesaid jeep, but restricted it to Rs.1,00,000/-.

5. Respondent No.1 - Insured remained *ex parte* before the Tribunal.

6. Respondent No.2 - Insurer filed its counter disputing the liability as well as quantum of compensation.

7. On consideration of entire evidence, both oral and documentary, the Tribunal gave a finding that the accident had occurred due to rash and negligent driving of the driver of the jeep. Accordingly, the Tribunal awarded an amount of Rs.20,000/- as compensation to the appellant. It is relevant to note that respondent No.2 - Insurer has not filed any appeal challenging the above said findings and the said finding attained finality. In view of the same, the only question that falls for consideration by this Court in the present appeal is as to whether the Tribunal has erred in awarding

only Rs.20,000/- towards compensation as against the claim of Rs.1,00,000/- made by the appellant.

8. It is the contention of the appellant that he sustained the following injuries in the accident:

- i) 3 cms., lacerated wound over left parietal region of skull;
- ii) 10 cms., lacerated wound over left frontal region of the skull;
- iii) 2 x 2 cms., lacerated wound over left eye-brow; and
- iv) Tenderness over pubic rami on the left side.

According to him, he was shifted to Government Hospital, Bhainsa and from there to Amrutha Laxmi Super Specialty Hospital, Nizamabad, where he was treated for 10 days and incurred an amount of Rs.36,000/-. It is his further contention that he was earning an amount of Rs.3,000/- per month by doing agricultural work. In support of his contention, the appellant has relied upon Ex.A3 - wound certificate issued by the Government Hospital, Bhainsa, wherein the doctor has specifically mentioned about 11 injuries. It also appears from Ex.A3 that all the said injuries are simple in nature. The appellant also examined PW.2, the doctor who treated him and he deposed that on 01.06.2000 he examined PW.1 and found the aforesaid injuries. The learned counsel for the appellant would rely upon Ex.A3 - wound certificate, Ex.A4 - MLC register, Ex.A6 - blood reports four in number and Ex.A8 - discharge summary. By referring the said documents and also the deposition of PW.2, the learned counsel for the appellant would contend that the Tribunal without appreciating the same, has awarded only Rs.11,000/- for the said

injuries on the ground that they are simple and an amount of Rs.9,000/- towards medical expenses and extra nourishment. According to him, the said compensation awarded by the Tribunal is meager and not reasonable.

9. On the other hand, the learned counsel for respondent No.2 would contend that the Tribunal considering the entire record and evidence, both oral and documentary, has awarded the said amount and the same is reasonable.

10. On perusal of the entire record including Ex.A3 - wound certificate, Ex.A4 - MLR Register, Ex.A6 - blood reports and Ex.A-8 - discharge summary and also deposition of PW.2, the appellant received the aforesaid injuries. Ex.A3 also refers 11 injuries which are simple. As per the deposition of PW.2, he has examined the appellant on 01.06.2000 and he found the above four injuries which includes wounds over left parietal region of skull, wound over left frontal region of the skull and wound over left eye-brow. Ex.A7 - X-ray films four in number would also disclose the said fracture of inferior pubic rami on the left side. Injury Nos.1 to 3 are simple while injury no.4 is grievous in nature. The patient was discharged on 09.06.2000. Thus, the said evidence would show that the appellant was under treatment from 01.06.2000 to 09.06.2000. PW.2, the doctor has also issued Ex.A4 - MLC register. But, the Tribunal has granted only an amount of Rs.11,000/- towards injuries on the ground that they are simple as per Ex.A3 - wound certificate, and also

awarded an amount of Rs.9,000/- towards medical expenses and extra nourishment. There is no reference about Ex.A5 - medical bills by the Tribunal. Ex.A5 - medical bills for an amount of Rs.8,125/- towards diagnostic charges, medical services and purchase of medicines and therefore the same is awarded under the said head, and the appellant is entitled for the said amount.

11. Apart from the above, admittedly, the appellant received several injuries in the manner stated above and according to PW.2, tenderness over pubic rami on the left side is a grievous injury. Admittedly, the appellant has taken treatment under PW.2 from 01.06.2000 till 09.06.2000. Ex.A8 discharge summary discloses the said fact. The Tribunal without considering the said aspects and also the fact that the appellant was an agriculturist and used to earn an amount of Rs.3,000/- per month, did not award any compensation on the said aspects on the ground that neither he filed any document nor examined any witness to establish the same. The Tribunal failed to consider the aspect that an agriculture *coolie*/labourer will not have any proof of his income, like an employee. The Tribunal also failed to consider the purport of the M.V. Act that it is a beneficial legislation and instead of awarding reasonable compensation, rejected the claim of the appellant in the manner stated above, that too on technicalities. The said finding and approach of the Tribunal is erroneous.

12. Therefore, in view of the above said discussion, the appellant is entitled for an amount of Rs.5,000/- towards transportation, an amount of Rs.25,000/- towards grievous injury. The appellant is also entitled an amount of Rs.9,000/- towards loss of earnings for a period of three months at the rate of Rs.3,000/- per month and another sum of Rs.1,000/- towards damage to cloths. Further, an amount of Rs.20,000/- is awarded towards pain and suffering which includes extra nourishment. Thus, in all the appellant is entitled to Rs.68,125/- as compensation as against the amount of Rs.20,000/- awarded by the Tribunal, under the following heads.

i) Fractures	.. Rs. 25,000-00
ii) Medical Expenses	.. Rs. 8,125-00
iii) Pain and suffering	.. Rs. 20,000-00
v) Transportation	.. Rs. 5,000-00
vi) Loss of earnings	.. Rs. 9,000-00
vii) Damages to clothing	.. Rs. 1,000-00

Total	.. Rs. 68,125-00

13. The Tribunal awarded the interest at the rate of 9% per annum, and the same is maintained on the amount awarded by the Tribunal. However, on the enhanced amount, the interest shall carry at the rate of 7.5% per annum.

14. In the result, the appeal filed by the appellant is allowed in part. Accordingly, the judgment and decree dated 26.12.2004 in O.P. No.949 of 2000 passed by the Tribunal are modified enhancing the compensation to Rs.68,125/- (Rupees sixty eight thousand one hundred and twenty five only) from Rs.20,000/-(Rupees twenty

thousand only) with interest at the rate of 7.5% per annum on the enhanced compensation from the date of petition till realization. The respondent No.2 - Insurer is directed to deposit the above said amount with interest and costs after deducting the amount, if any, deposited earlier within one month from the date of receipt of certified copy of this judgment. There shall be no order as to costs.

As a sequel, Miscellaneous Applications, if any, pending in the appeal shall stand closed.

12th February, 2020
Mgr

K. LAKSHMAN, J

