

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1766 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the order dated 14.02.2011 passed in O.P.No.1554 of 2008 by the Court of XVII Additional Chief Judge-cum-III Additional Metropolitan Sessions Judge at Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that on 20.04.2008 at about 3.30 pm., while the appellant was travelling on his motorcycle bearing No.AP28AT 7262 from his office at KPHB Colony, and when he reached Temple Bus Stop, a Maruthi Wagon-R car bearing No.AP15S 7677 came in a rash and negligent manner and dashed the appellant, due to which, the appellant fell down and sustained fracture injuries on both hands and also head injury. He filed aforesaid OP against respondents Nos.1 to 2, owner and insurer of aforesaid car, claiming compensation of Rs.5,00,000/- 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 car and awarded total compensation of Rs.1,99,400/- under

various heads with interest @ 7.5% 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 two fracture injuries and also head injury, for which, he underwent surgery and implants were also inserted. 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.7-disability certificate to that effect, but the Tribunal took the disability at 15% only. He further submits that due to the injuries, the appellant is not in a position to lift weight with both hands and he cannot climb poles and hence, he is entitled to future prospects, but the Tribunal did not grant future prospects. Apart from the same, the Tribunal, though the appellant produced evidence to show that he was earning Rs.7,500/- per month, took the income of the appellant at Rs.4,000/- per month, which is meager. He further submits that the age of the petitioner was 23 years at the time of accident and the appropriate multiplier as per the decision of the Hon'ble Supreme Court in **Smt.Sarla Varma Vs. Delhi Transport Corporation**¹ is '18', but the Tribunal wrongly took the multiplier '17' and seeks to modify the same. Basing on the above

¹ 2009 (6) SCC 121

submissions, the learned counsel seeks to enhance the compensation.

6. Sri Harinath Reddy Soma, learned Standing Counsel for respondent No.2, submits that the Tribunal passed a well reasoned order by taking into consideration all the aspects and seeks to dismiss the appeal.

7. As the appellant is stated to be working as Senior Technician in cable and internet services, fixing of his monthly income at Rs.4,000/- by the Tribunal is meager and the same is enhanced to Rs.7,500/- per month. Insofar as disability aspect is concerned, though P.W.2 deposed that due to the said injuries the appellant suffered disability at 25%, the Tribunal, by taking into consideration the facts and circumstances of the case, considered the disability of the appellant at 15%, which in the opinion of this Court needs no interference.

8. It is evident from the record that the appellant was aged 23 years at the time of accident, and as per **Smt.Sarla Varma's** case (supra), the appropriate multiplier is '18', but the Tribunal erroneously adopted multiplier '17'. Hence, the compensation under the head 'loss of income due to disability' comes to Rs.2,43,000/- (Rs.7,500/- X 12 months X 18 X 15%). The enhanced amounts are shown in the below mentioned tabular.

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Actual loss of income	Rs.8,000/-	Rs.15,000/-
02.	Medical expenditure	Rs.39,000/-	Rs.39,000/-

03.	Loss of income due to disability	Rs.1,22,400/-	Rs.2,43,000/-
04.	Pain and suffering	Rs.25,000/-	Rs.25,000/-
05.	Nervous shock	Rs.5,000/-	Rs.5,000/-
TOTAL		Rs.1,99,400/-	Rs.3,27,000/-

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.1,99,400/- to Rs.3,27,000/-. 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: 06.01.2020
TJMR

T.AMARNATH GOUD, J

