

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

M.A.C.M.A. No.1315 OF 2006

JUDGMENT:

Feeling aggrieved by the order dated 20.04.2006 in OP No.839 of 2003, passed by the IV Additional District and Sessions Judge, Fast Track Court, Ranga Reddy District, the appellant – claimant preferred the present appeal.

2. Vide the aforesaid award, the Tribunal has awarded an amount of Rs.18,000/- towards compensation with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of payment, as against a claim of Rs.3,00,000/- by the appellant – claimant.

3. Heard the learned counsel for the appellant – claimant and the learned counsel for the 2nd respondent – Insurance Company.

4. The appellant – claimant filed OP No.839 of 2003 contending that on 11.04.2003 at about 12.00 noon while the appellant – claimant and others were proceeding in an auto bearing No.AP 9W 9307 from their house at Patancheruvu and when they reached near Bachupally village on the main road, one lorry bearing No.AP 22 U 2651, came in opposite direction and dashed the auto. Due to the said accident, the appellant and others sustained grievous injuries. Immediately after the accident, the appellant and others were shifted to Ram Hospital, Shapurnagar, wherein they were treated as

in-patients. He contended that prior to the accident, he was hale and healthy and he used to work in a private finance company and earn Rs.3,500/- per month. Due to the accident, he has spent huge amount towards treatment and also sustained permanent disability. It is further contended that the accident was occurred due to the rash and negligent driving of the driver of the lorry. With the said contentions, initially the appellant – claimant claimed an amount of Rs.2,25,000/- towards compensation from the respondents and subsequently, enhanced the amount to Rs.3,00,000/-.

5. The 1st respondent remained exparte before the Tribunal. On consideration of the entire material on record, the Tribunal gave a finding that the accident occurred due to rash and negligent driving on the part of the driver of the lorry. Admittedly, the 2nd respondent – Insurance Company did not file any appeal challenging the said finding and therefore, the said finding attained finality. The only question that falls for consideration before this Court is with regard to the quantum of compensation.

6. It is the contention of the appellant that he used to work in a private finance company and used to earn an amount of Rs.3,500/- per month towards his salary. There is no contra evidence or nothing contra was elicited from the cross-examination of the appellant, who examined as PW.1. In view of the same, the monthly salary of the appellant is considered as Rs.3,500/-.

7. Learned counsel for the appellant – claimant would submit that due to the accident, he sustained fracture to his left leg thigh, injury to right tibia and other injuries all over the body and he was admitted in Ram Hospital, Shapur Nagar, where he was treated for 56 days as in-patient. According to him, the appellant undergone surgery and rod was also inserted in the left leg thigh. He further submitted that again on 24.11.2004, the appellant was admitted as in-patient in the said hospital for removal of rod and he was there for 13 days. According to him, in all, the appellant spent an amount of 2,50,000/- towards his treatment. In support of the same, the appellant examined three medical officers as PWs.2 to 4 before the Tribunal.

8. PW.2 is the Superintendent of Ram Hospital. According to PW.2, the appellant sustained five injuries i.e. cut injury to the chin, abrasive injury over the right tibia, lacerated injury over the dorsum of right foot, laceration over the left eye brow and injury to left femur (thigh), and that after examination, the appellant was referred to Orthopedic Surgeon i.e. PW-3. PW.3 stated that he has treated the appellant and found comminuted fracture of proximal left femur (thigh bone) with fracture of medial condyle left femur, Potts fracture of right ankle and compound fracture of right proximal phalanx of great toe associated with facial injuries and head injury, and that he also held surgery over the fracture of left femur and a nail was inserted.

9. PW.4 is another Doctor, who treated the appellant in the said hospital on 24.11.2004 for removal of nail from the left thigh bone. He deposed that the appellant admitted in the said hospital on 24.11.2004 as he got infection of the wound on post operation, then he held surgery and removed the nail on 26.11.2004 and thereafter the appellant was discharged from the hospital on 06.12.2004. The appellant also filed Exs.A-4, A-5, A-9, A-10, A-11 and A-12 X-ray films in support of the same.

10. As stated above, the appellant has also examined three doctors apart from examining himself as PW.1. The Tribunal without considering the exhibits and the depositions of doctors i.e. PWs.2 to 4, awarded an amount of Rs.18,000/- as compensation. The approach of the Tribunal is erroneous in awarding compensation to the appellant. The Tribunal failed to consider Ex.A-6 bills dated 05.06.2003 for Rs.1,48,787/- and also the Hospital bill and other medical bills and blood purchase bills and transportation bill under Exs.A-7 and A-8. There is no finding for non-consideration of the said bills. Therefore, according to this Court, the appellant – claimant is entitled for a total amount of Rs.2,20,487/- towards medical expenses.

11. As discussed above, the appellant used to work in a private financial company and used to earn an amount of Rs.3,500/- per month towards his salary. The appellant was under treatment for 56 days as inpatient for the first time and for 13 days for the second time in Ram Hospital. After discharge from the hospital, he was also under

treatment for two more months. Therefore, the appellant is entitled for an amount of Rs.14,000/- towards loss of earnings (Rs.3,500/- x 4 months). Apart from the same, according to this Court, the appellant - claimant is also entitled for Rs.5,000/- towards transportation and Rs.20,000/- towards extra nourishment. It is not in dispute that the appellant sustained grievous injury and he underwent surgery and rod was also inserted and thereafter, the rod was removed. Therefore, he is entitled for Rs.25,000/- towards grievous injury. It is also not in dispute that the appellant – claimant sustained four simple injuries and therefore, he is entitled for Rs.20,000/- to four simple injuries (Rs.5,000/- x 4 simple injuries). The appellant is also entitled for Rs.1,000/- towards damages to clothes and Rs.4,000/- towards attendant charges.

12. Therefore, the appellant – claimant is entitled for the following amounts towards compensation:

1. Medical Expenses	..	Rs.2,20,487-00
2. Fracture Injury	..	Rs. 25,000-00
3. Simple injuries	..	Rs. 20,000-00
4. Extra nourishment	..	Rs. 20,000-00
5. Loss of Income	..	Rs. 14,000-00
6. Transportation	..	Rs . 5,000-00
7. Attendant charges	..	Rs. 4,000-00
8. Damage to clothes	..	Rs. 1,000-00

Total compensation	..	Rs.3,09,487-00

13. Thus, in all, the appellant – claimant is entitled to an amount of Rs.3,09,487/- (Rupees three lakhs nine thousand and four hundred and eighty seven only) towards compensation with interest @7.5% per annum on the enhanced amount.

14. In the result, the MACMA is allowed and the order and decree dated 20.04.2006 in OP No.839 of 2003, passed by the IV Additional District and Sessions Judge, Fast Track Court, Ranga Reddy District, are modified enhancing the compensation to Rs.3,09,487/- (Rupees three lakhs nine thousand four hundred and eighty seven only) from Rs.18,000/- (Rupees eighteen thousand only) with interest @ 7.5% per annum on the enhanced amount, from the date of petition till realization. The 2nd respondent - Insurance Company is directed to deposit the above said amount with interest and costs, after deducting the amount which was already deposited, within one month from the date of receipt of certified copy of this judgment. After deposit of the amount, the appellant – claimant is entitled to withdraw the same.

There shall be no order as to costs. As a sequel, miscellaneous petitions, pending if any, shall stand closed.

K. LAKSHMAN, J

January 29, 2020

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