

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2461 OF 2015

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 31.05.2012 passed in O.P.No.800 of 2006 by the Motor Accidents Claims Tribunal (I Additional District Judge), at Nizamabad (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that on 30.09.2004 while the petitioner was going in an auto bearing No.AP 25 U 7439 at about 10.00 p.m. in front of Jubilee Hotel, Quilla Road, Nizamabad Town, the offending auto was driven in rash and negligent manner, as a result he fell down from the auto and sustained injuries. The petitioner was shifted to GHH, Nizamabad, wherein he was treated as inpatient for two days and later he was referred to Gandhi Hospital, Secunderabad. There, he underwent operations twice for the injuries sustained by him and the fractures were fixed with implants. Prior to the date of accident, the petitioner was a student and earning Rs.10,000/- per month by doing business in fruits and vegetables. The petitioner incurred expenditure of Rs.1,50,000/- for his treatment. In spite of the said treatment, he is unable to walk and work and he lost his earning capacity. Hence, the petitioner filed the claim petition claiming a

compensation of Rs.2,50,000/-, payable by both the respondents jointly and severally, being the owner and insurer of the offending auto.

4. Before the Tribunal, the 1st respondent remained *ex parte*. The 2nd respondent filed counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-9 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending auto and awarded total compensation of Rs.60,000/- i.e., Rs.45,000/- towards pain & suffering and Rs.15,000/- towards Medical expenses, extra nourishment, transportation and attendant charges, with interest @ 7.5% per annum from the date of petition till the date of deposit, payable by both the respondents. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. Heard Sri P.Radhive Reddy, learned counsel appearing for the appellant and Smt. P.Satya Manjula, learned standing counsel appearing for the 2nd respondent/insurance company. Perused the material record.

7. Admittedly, the petitioner incurred two grievous injuries (i) fracture to both bones of left leg and (ii) fracture left foot bone, and two simple injuries (i) contusion on skull and (ii) abrasion on fore head. But the Tribunal has only granted Rs.45,000/- towards pain and suffering, which is very meager. Therefore, this Court feels that it would be just and proper if an amount of Rs.25,000/- each is granted towards two grievous injuries i.e., Rs.50,000/- and Rs.2,500/- each is granted towards two simple injuries i.e., Rs.5,000/-. The amount of Rs.15,000/- granted by the Tribunal towards medical expenses, extra nourishment, transportation and attendant charges remains unchanged. Therefore, the total compensation comes to Rs.70,000/- (Rs.50,000/- + Rs.5,000/- + Rs.15,000/-). Except the said enhancement, rest of the award remains unchanged.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.60,000/- to Rs.70,000/-, payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till the date of realization. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the entire amount. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

T.AMARNATH GOUD, J

Date: 8th January, 2020

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