

THE HON'BLE SRI JUSTICE N. TUKARAMJI

M.A.C.M.A.No.1598 OF 2011

JUDGMENT:

Heard Sri Azar Sravan Kumar, learned counsel for the appellant and Smt. I.Mamu Vani, learned Standing Counsel for the 2nd respondent.

2. The claim petitioner preferred this appeal seeking enhancement of compensation awarded in the decree and order dated 30.04.2011 in O.P.No.1033 of 2005, on the file of Motor Accident Claims Tribunal-cum-III Additional District & Sessions Judge (Fast Track Court), Nizamabad.

3. For the sake of convenience, the parties are referred to as per their array before the Tribunal.

4. The brief facts of the case are that on 09.11.2004 while the petitioner as pillion rider was proceeding on the Hero Honda Splendor motor cycle bearing registration No.AP25-L-2810 (for short, 'the motorcycle') in

front of Bajaj Showroom, Devi Talkies X Road on Phulong to old LIC Road, Nizamabad, the rider of the motor cycle driven the vehicle in rash and negligent manner in high speed and struck the road divider, by which the petitioner slumped down and suffered comminuted fracture of both bones of his left leg, head injury and other injuries. After the treatment, the petitioner filed the claim seeking compensation of Rs.2,00,000/- for medical expenditure and other heads.

5. The Tribunal on analyzing the evidence held that the accident occurred due to rash and negligent driving of the motor cycle and awarded compensation of Rs.50,000/- with interest @ 7.5% per annum.

6. In appeal, the petitioner/claimant contested that the Tribunal should have considered the medical bills placed on record, but without any reason, granted Rs.25,000/- by observing that the bills are exaggerated. That apart, without considering the injuries, awarded Rs.15,000/- towards pain and suffering. In addition, the Tribunal has not considered the aspect of loss of earnings

during the period of treatment and nothing was granted for transportation. Thus, prayed for re-assessment and to grant just compensation.

7. On the other hand, learned counsel for the 2nd respondent/insurer pleaded that basing on the materials placed by the petitioner, the Tribunal had leniently granted the compensation. Hence, there is no reason for interference and prayed for confirming the award.

8. In this position, the point that arise of determination is:

Whether the compensation awarded to the petitioner by the Tribunal is just and proper?

9. The petitioner as P.W.1 pleaded that by the date of accident, he was 29 years old and he was earning Rs.10,000/- as an Accountant of four Commission Agencies and in the accident, he suffered comminuted fracture to both bones of left leg. Dr.T.Narsing Rao/P.W.2 deposed that the petitioner had suffered comminuted fracture of both

bones of left leg, accordingly he issued Medical Certificate/Ex.A3. Having regard to this evidence, it can be concluded that in the accident, the petitioner had suffered comminuted fracture injuries.

10. The Doctor/P.W.2 also stated that the petitioner/P.W.1 was admitted as inpatient in Pragathi Hospital, Nizamabad, on 09.11.2004. During treatment, the P.W.1 had undergone operation and the fracture was fixed with interlocking nail. The Discharge Card/Ex.A4 issued by Pragathi Hospital, Nizamabad, is substantiating the version of the doctor/P.W.2. The petitioner/P.W.1 claimed that he had incurred Rs.1,00,000/- towards medical treatment. However, filed only 21 medical bills/Ex.A6 for Rs.35,890/-. It is evident that the doctor P.W.1 had prescribed the medicines in the operation notes. Considering these aspects and the injuries suffered by the P.W.1 and in the absence of any dispute as to genuinity of the bills, granting the amounts reflected in the medical bills/Ex.A6 is found appropriate. Accordingly, by rounding of an amount of Rs.36,000/- is granted towards medical expenditure. The

Discharge Summary/Ex.A4 and the doctor's evidence are showing that the petitioner was treated as inpatient from 09.11.2004 to 19.11.2004. However, as the petitioner suffered comminuted fracture of both bones of left leg, it could have certainly effected the mobility and as the follow-up treatment was prescribed for a period of two (02) months, in all probabilities, the petitioner would not have attended his avocation for at least two (02) months. Another material proving income, Tribunal notionally granted Rs.10,000/- towards loss of income during the period of treatment. This conclusion is found reasonable, hence affirmed.

11. Further, in the Award Rs.10,000/- for one grievous injury and Rs.15,000/- towards pain and suffering has been granted. The prescriptions in awarding compensation for the injuries does not contemplate injury specific amounts. Thus, the amounts under these heads has to be considered as the compensation for the pain and sufferings. Thus, cumulatively ordering this amount towards pain and sufferings is found proper. In addition,

considering the advised bed rest and the length of following treatment, granting Rs.6,000/- towards attendant charges and Rs.5,000/- for transportation, is found appropriate.

12. Therefore, the petitioner is entitled for the following amounts, viz., :

DESCRIPTION	AMOUNT (Rs.)
Medical expenses	36,000.00
Pain and Suffering	25,000.00
Loss of income during the period of treatment.	10,000.00
Attendant charges	6,000.00
Transportation	5,000.00
TOTAL	82,000.00

13. For the aforesaid reasons, the Appeal is allowed as follows:

(i) the petitioner is awarded Rs.82,000/- (Rupees eighty two thousand only) with interest at 7.5% per annum with proportionate costs, from the date of petition till date of realization;

ii) the respondents are jointly and severally liable to pay the compensation and they are directed to deposit the

awarded amount within one (01) month from the date of receipt of a copy of this judgment;

(iii) on deposit of the awarded amount, the petitioner is permitted to withdraw entire amount.

14. As a sequel, miscellaneous petitions, pending if any, shall stand closed.

N.TUKARAMJI, J

Date: 26.08.2022
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