

HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

M.A.C.M.A.No.3171 of 2008

JUDGMENT :

This appeal is filed by the claimant being aggrieved by the order and decree dated 18.01.2007 in M.V.O.P.No.2397 of 2003 on the file of XXII Additional Chief Judge-cum-Motor Accident Claims Tribunal, City Criminal Court, Hyderabad, for the injuries sustained by him. The O.P. was filed claiming compensation of Rs.5,00,000/- together with interest and costs.

2. For the sake of convenience, the parties are referred to as arrayed in the O.P.

3. On 31.03.2003 at about 12.30 p.m., the claimant was proceeding on his Scooter from Choutuppal to Pedda Kondur village as a pillion rider. At that time, Auto trolley bearing No. AP-24-U-3365 came in opposite direction in rash and negligent manner and hit the scooter, due to which, the claimant sustained grievous multiple injuries and was shifted to Sai Sanjeevini hospital, Dilsukhnagar, for treatment.

4. The Insurance Company/2nd respondent filed a detailed counter disputing the manner of accident and contended that there is contributory negligence on the part of the Driver of the Scooter and also disputed the age and income of the claimant and denied the liability of the Insurance Company.

5. The Tribunal, on examining the oral and documentary evidence on record, partly allowed the O.P., awarding a total compensation of Rs.1,60,000/- along with costs and interest @ 7.5% per annum from the date of petition till the date of realization.

6. Heard both sides and perused the record.

7. The only grievance of the appellant/claimant in this appeal is that the Tribunal has granted less compensation. Therefore, the appreciation will be only with respect to the quantum of compensation granted by the Tribunal.

8. The learned Counsel for the appellant/Claimant contended that the Tribunal ought to have applied the multiplier and future prospects, while granting compensation and also ought to have

calculated 60% of disability as per Ex.A-10, for the injuries sustained by the appellant.

9. On the other hand, the learned counsel for the respondent/Insurance Company contended that the Tribunal has rightly considered all the factors and granted compensation of Rs.1,60,000/- and the same need not be interfered with.

10. The Tribunal, after considering the oral and documentary evidence on record, has granted compensation to the claimant under the following heads:

1.	Medical expenses	Rs.40,000/-
2.	Transportation charges	Rs.5,000/-
3.	Extra nourishment	Rs.5,000/-
4.	Future operation expenses	Rs.15,000/-
5.	Pain and suffering	Rs.35,000/-
6.	Permanent partial disability	Rs.60,000/-
	TOTAL	Rs.1,60,000/-

11. During the course of arguments, the learned counsel for the appellant contended that the trial Court ought to have taken the notional income of the claimant as Rs.3,000/- per month or ought to have taken Rs.15,000/- per annum as the notional income of the claimant, while calculating the compensation.

12. Admittedly, there is no evidence on record as to the income of the claimant, who was a student at the time of the accident and was aged 21 years. Therefore, the notional income of Rs.15,000/- per annum can be taken into consideration for the year 2003.

13. As per the proposition laid down in the judgment of Hon'ble Supreme Court in **Smt.Sarla Verma v. Delhi Transport Corporation & another**¹, the multiplier applicable for the age group of 21 to 25 years is '18'. In spite of the evidence of PW-1 i.e. the Doctor, the Tribunal did not consider Ex.A-10/disability certificate issued by NIMS hospital as the same doctor, who issued Ex.A-10, was not examined. On perusal of Ex.A-10, it is evident that it was issued by one Dr.B.V.N.Prasad Rao of NIMS hospital and PW-2 is also the doctor of NIMS hospital, who was examined before the Court. As per the judgment of the Hon'ble Apex Court in **Syed Saleem & others v. Abdul Shukur & another**², it is not necessary to examine the same Doctor, who treated the injured. Therefore, Ex.A-10 can be taken into consideration to assess the loss of earnings of the claimant. Therefore, the loss of earnings

¹ (2009) 6 SCC 121

² 2007 (1) ALT 648

would come to Rs.1,62,000/- by applying 60% disability and multiplier '16' with that of the notional income of Rs.15,000/- (Rs.15,000/- X 60/100 X 18). Further, the claimant is also entitled for Rs.50,000/- towards pain and suffering, Rs.30,000/- towards future operation expenses, Rs.15,000/- towards future treatment, Rs.10,000/- towards extra-nourishment and Rs.10,000/- towards transportation charges and a further some of Rs.40,000/- for the medical expenses already incurred by him as per Ex.A-7, as per Exs.A-3 to A-8.

14. Thus, the claimant is entitled to compensation under different heads as under:

1.	Loss of earnings	Rs.1,62,000/-
2.	Pain and suffering	Rs.50,000/-
3.	Future operation expenses	Rs.30,000/-
4.	Future medical expenses	Rs.15,000/-
5.	Medical expenses already incurred	Rs.40,000/-
6.	Extra-nourishment	Rs.10,000/-
7.	Transportation charges	Rs.10,000/-
	TOTAL	Rs.3,17,000/-

15. Thus, the claimant/appellant is entitled to an amount of Rs.3,17,000/- towards compensation, payable by respondent Nos.1 to 2 jointly and severally within two months from the date of

receipt of this order and the appellant is permitted to withdraw the entire amount as the accident occurred in the year 2003.

16. Appeal is accordingly allowed.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 22.09.2022

ajr