

THE HON'BLE JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 2850 of 2015

JUDGMENT:

This appeal is filed by the claimant, injured, aggrieved by the order and decree, dated 22.07.2015 made in M.V.O.P.No. 1276 of 2012 on the file of the Chairman, Motor Accident Claims Tribunal-cum-XIV Additional chief Judge (Fast Track Court), City Civil Courts, Hyderabad (for short, the Tribunal).

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

The claimant filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.7.00 lakhs towards compensation for the injuries sustained by him in a motor vehicle accident that occurred on 13.02.2012. According to the claimant, on 13.02.2012, while he was waiting opposite Miyapur bus depot for bus to go to his residence, the offending vehicle i.e., motorcycle bearing No. AP 13AA 1245, owned by respondent No. 1, insured with respondent No. 2, being ridden by its driver in a rash and negligent manner, dashed the claimant. As a result, the claimant fell down and sustained fracture to left leg both bones apart from other injuries. He was treated at APSRTC Hospital, Tarnaka as inpatient. According to him, he had sustained permanent

disability due to the injuries suffered in the accident. Therefore, he laid the claim for Rs.7.00 lakhs against the respondents towards compensation under different heads.

Before the Tribunal, respondent Nos. 1 & 2, contested the claim denying the averments of the claim petition and contended that the amount claimed is excessive and prayed for dismissal of the claim petition.

Considering the claim, counter and the evidence, both oral and documentary brought on record, the tribunal has allowed the O.P. in part awarding a sum of Rs. 2,75,800/- towards compensation along with interest at 7.5% per annum. Seeking further enhancement of compensation, the claimant approached this Court with the present appeal.

Heard both sides and perused the material available on record.

The finding of the Tribunal with regard to the manner in which the accident took place has become final as the same is not challenged either by the owner or insurer of the vehicle.

The short question that arises for consideration in this appeal is “*whether the compensation awarded by the Tribunal is just and equitable*”?

The main contention advanced by the learned counsel for the appellant-claimant is that the claimant has sustained fracture of left leg both bones, injury to chest, head injury and blunt injuries all over the body. Although the tribunal has accepted 15% disability accepted the salary of Rs.8,000/- per month, did not award any amounts under the head of injuries and loss of amenities. Even the amounts awarded under the heads of pain & suffering and transportation, attendant and extra nourishment are meager and need to be enhanced.

On the other hand, the learned Standing Counsel for the Insurance Company has contended that considering the nature of injuries and length of treatment, the tribunal has adequately awarded the compensation and therefore, the learned Standing Counsel sought for dismissal of the appeal.

As seen from Ex.A.5, disability certificate, coupled with the evidence of P.W.2, doctor, the claimant had suffered 15% permanent disability, basing on which the tribunal has accepted

the disability at 15% rightly awarded a sum of Rs.2,44,800/- under the head of loss of income due to disability duly taking the monthly income of the claimant at Rs.8,000/-. Since the claimant, being Conductor, had taken treatment at APSRTC Hospital, wherein the treatment is at free of cost, the tribunal has rightly awarded only the amount of Rs. 25,000/- towards medicines and extra nourishment. However, considering the fact that the claimant had suffered fracture of left leg both bones, injury to chest, head injury and blunt injuries, this Court is of the view that the tribunal ought to have awarded certain amounts under the head of injuries. Hence, this Court awards a sum of Rs. 25,000/- under the head of injuries. The amount of Rs. 15,000/- awarded by the tribunal towards pain and suffering is enhanced to Rs. 20,000/-. So also, the amount of Rs. 1,000/- awarded by the tribunal under the head of transport charges is hereby enhanced to Rs. 15,000/- under the head of transport and attendant charges. Thus, in all, the claimant is granted the compensation of Rs. 3,29,800/- as against Rs.2,75,800/- awarded by the tribunal.

In the result, the MACMA is allowed in part enhancing the compensation from Rs. 2,75,800/- to Rs.3,29,800/-. The enhanced compensation shall carry interest at 7.5% per annum

from the date of order of the tribunal till the date of realization. The respondents are directed to deposit the amount within two months from the date of receipt of a copy of this order. On such deposit, the claimant is entitled to withdraw the said amount. No order as to costs.

Pending Miscellaneous petitions shall stand closed.

JUSTICE M.G. PRIYADARSINI

13.12.2022
TSR

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DATE:13-12-2022