

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.371 of 2019

JUDGMENT:

Not being satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal-cum-I Additional District Judge, Khammam, in M.V.O.P. No.93 of 2017, dated 16.11.2018, the present appeal is filed by the claimant seeking enhancement of compensation.

2. According to the petitioner, on 20.05.2016 the petitioner along with her mother boarded auto bearing No. AP 20 TA 715 at Kakarla village to go to Julurpadu village and when the auto reached near Padamata Narsapuram village at about 22-45 hours, Van bearing No. TS 04 UA 4309 being driven by its driver came in rash and negligent manner and dashed their auto. As a result of which, she fell down and sustained fractures on right femur and both bones of below knee on right side, grievous head injury and other multiple injuries all over the body. Thus, she is claiming compensation of Rs.2,00,000/- under various heads against the respondent Nos.1 and 2, who are owner and insurer of the offending auto.

3. Respondent No.1 remained ex parte. Respondent No.2 filed counter disputing the manner of accident and nature of injuries sustained by the petitioner. It is further contended that the claim is excessive.

4. Based on the above pleadings, the Tribunal framed the following issues:

1. *Whether the accident took place due to rash and negligent driving of the driver of the crime vehicle i.e., Van bearing No. TS -04 UA 4309, occurred on 20.05.2016 at about 22.45 hours at Padamata Narsapuram village?*
2. *Whether the claim petitioner is entitled to any compensation, if so, to what amount and from whom?*
3. *To what relief?*

5. In order to prove the issues, PWs.1 and 2 were examined and Exs.A1 to A4 got marked on behalf of the petitioner. On behalf of respondents, no witnesses were examined. However, copy of insurance policy was marked as Ex.B1.

6. Considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.47,000/- towards

compensation to the appellant-claimant along with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of realization against the respondent Nos.1 and 2 jointly and severally, as against the claim of Rs.2,00,000/-.

7. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the second respondent-Insurance Company. Perused the material available on record.

8. The learned counsel for the appellant-claimant has submitted that although the claimant, by way of evidence of P.Ws.1 and 2 coupled with documentary evidence established the fact that the accident occurred due to the rash and negligent driving of the driver of the lorry, and the petitioner has sustained permanent disability due to the grievous injuries caused in the accident and spent huge amount towards her treatment, the Tribunal did not consider the medical bills filed by her and awarded very meager amount.

9. The learned Standing Counsel appearing on behalf of second respondent-Insurance Company sought to sustain the impugned award of the Tribunal contending that considering the manner of accident

and the nature of injuries sustained by the petitioner, the learned Tribunal has awarded reasonable compensation and the same needs no interference by this Court.

10. With regard to the manner of accident, there is no dispute. However, after evaluating the evidence of PW-1 coupled with documentary evidence available on record, the Tribunal rightly held that the accident was occurred due to rash and negligent driving of driver of offending auto.

11. Coming to the quantum of compensation, according to the evidence of PW-2 Doctor who treated the petitioner at IndusS Hospital, Hyderabad, a surgery was conducted to right hip on 23.5.2016 as she sustained fracture to her right hip. PW-2 further deposed that due to the above said fracture and surgery, strength of bone as well as leg is decreased, as such, the petitioner is unable to attend hard works and sustained disability of about 22% approximately in her entire life. Ex.A4 discharge summary shows that there is a fracture on right hip and the petitioner was admitted in the hospital on 21.5.2016 and was discharged on 26.5.2016. Therefore,

considering the nature of injuries sustained by the petitioner, an amount of Rs.47,000/- under various heads.

12. It is observed by this Court that initially medical bills are not filed before the tribunal, however, the learned counsel for the petitioner has submitted that the medical bills which were filed now have been filed before the Chief Minister for granting of amount, but the same were not considered nor sanctioned. For the aforesaid reason, the petitioner could not file the medical bills before the Tribunal during the trial. However, a perusal of the medical bills shows that they are original bills issued by IndusS Hospital wherein the name of the petitioner was reflecting and the date of the bill is 30.05.2016 and it is tallying with the date of accident as 20.05.2016. Therefore, it is very clear that the petitioner has undergone treatment in IndusS Hospital and the hospital authorities have issued the bills for Rs.99,901/- and the same has been deposed by PW-2. Hence, this court is of the considered opinion that the medical bills can be accepted. Therefore, without going into the merits of the case, an amount of Rs.99,900/- is awarded towards medical expenses in

addition to the amount awarded by the Tribunal. Thus in all, the petitioner is entitled for an amount of **Rs.1,46,900/-** under all counts.

13. In the result, the M.A.C.M.A. is allowed in part by enhancing the compensation amount awarded by the Tribunal from Rs.47,000/- to **Rs.1,46,900/-**. The enhanced amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization, payable by respondent Nos. 1 and 2 jointly and severally. The amount shall be deposited within a period of one month from the date of receipt of a copy of this order. On such deposit of compensation amount by the respondents, the claimant is at liberty to withdraw the same without furnishing any security. No costs.

Miscellaneous petitions, if any pending, shall stand closed.

M.G.PRIYADARSINI,J

26.12.2022

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