

THE HONOURABLE SMT JUSTICE P. MADHAVI DEVI

MACMA No.265 OF 2016

ORDER:

This Motor Accidents Civil Miscellaneous Appeal is filed against the order and decree dated 28.09.2015 in OP No.237 of 2013 on the file of Chairman, Motor Accident Claims Tribunal (VIII Additional District Judge, Nizamabad), whereunder the claim petition filed by the appellant, who is injured in the accident that occurred on 10.10.2012, was allowed in part. Aggrieved by the compensation awarded by the Tribunal the claimant filed the present appeal seeking enhancement of compensation.

2. The beief facts leading to filing of the present appeal are that on 10.10.2012 while the appellant, who is an agriculturist, was proceeding on the motorcycle of one Yerram Sayanna bearing No.AP 25 F 1253 to his fields and on the way, when he reached near 132KV Sub station at Nandipet at about 07.00 pm, another motorcycle bearing No.AP 25 AJ 2676 came in a rash and negligent manner and dashed to the motorcycle of the appellant, owing to which, the appellant sustained fracture of left hip joint in the accident and had undergone surgery on 11.10.2012 and also had further operation for removal of implant. Hence, the appellant filed cliam petition for Rs.3,00,000/- for the injuries sustained in the accident.

3. Before the Tribunal, the respondent No.1, owner of the motorcycle and respondent No.2 insurer filed counter denying the claim of the appellant.

4. On considering the oral and documentary evidence adduced by both parties, the Tribunal awarded a compensation of Rs.1,20,000/- as against the claim of Rs.3,00,000/-.

5. Heard the learned counsel for the appellant. In spite of service of notice, none appeared for respondent No.2 Insurance company.

6. Learned counsel for the appellant placed reliance upon the evidence of the Doctor, who conducted operation in support of his contention. The compensation under the head injury, shock, pain and suffering is to be granted at Rs.50,000/- as against Rs.25,000/- awarded by the Tribunal and Rs.80,000/- compensation awarded under the heads of hospital and medical expenses, transport, extra nourishment, has to be enhanced. It is further submitted that loss of earnings was granted only for three months, but it has to be granted for six months.

7. Having regard to the material placed on record and also considering the contentions of the appellant, this Court deems it

fit and proper to enhance the compensation under the head injury, shock, pain and suffering by a further sum of Rs.40,000/- i.e., total Rs.65,000/- and compensation under the heads of hospital and medical expenses, extra nourishment is granted by a further sum of Rs.20,000/- i.e., total Rs.1,00,000/- as the petitioner had undergone another operation for implant removal. The compensation of loss of earning is also granted for a period of six months i.e., Rs.30,000/-.

8. In the light of the abovementioned discussion, the appellant is entitled to the following amounts:

Sl.No	Head	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Compensation under the head injury, shock, pain and suffering	Rs.25,000/-	Rs.65,000/-
	Compensation under the heads if hospital and medical expenses, transport, extra nourishment, attendant expenses etc.	Rs.80,000/-	Rs.1,00,000/-
	Compensation for loss of earnings (past)	Rs.15,000/-	Rs.30,000/-
	Total	Rs.1,20,000/-	Rs.1,95,000/-

9. As regards the interest, the Tribunal has awarded 6% interest as against the usual practice of award is 7.5% rate of interest. Hence, rate of interest is enhanced to 7.5% per annum.

10. Accordingly, the Civil Miscellaneous Appeal is partly allowed enhancing the compensation of Rs.1,20,000/- to Rs.1,95,000/- against respondents 1 and 2 jointly and severally. The appellant is entitled to interest @ 7.5% per annum on the enhanced compensation. The respondent insurance company is directed to deposit the compensation amount within 90 days from the date of receipt of a copy of this judgment. On such deposit, the Appellant is permitted to withdraw the same without furnishing any security.

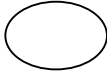
11. Pending miscellaneous petitions, if any, in this MACMA shall stand closed.

P.MADHAVI DEVI, J

Date: 09.06.2022

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THE HONOURABLE SMT JUSTICE P. MADHAVI DEVI



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