

THE HONOURABLE JUSTICE G. SRI DEVI

M.A.C.M.A. No. 1403 of 2014

JUDGMENT :

Dissatisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal-cum-XXI Additional Chief Judge-cum-Additional Metropolitan Sessions Judge for the trial of communal offence cases cum VII Additional Metropolitan Sessions Judge, Red Hills, Nampally, Hyderabad vide order dated 06.03.2006 in M.V.O.P. No. 1611 of 2003, the present appeal is filed by the claimant.

2. On 30.12.2002, while the claimant along with others was traveling in the Toyota Qualis bearing No. AP.9.AH.8991 owned by the respondent No. 1 and insured with respondent No. 2, went to Srisailam and after darshan, while they were returning from Srisailam, the said vehicle met with an accident on account of rash and negligence driving by the driver at about 8-30 p.m. near Tukkuguda village of Ranga Reddy District, due to which, the claimant sustained injuries. Therefore, she laid a claim against the respondents seeking compensation of Rs.4,50,000/- for the injuries

sustained by her in the accident. While the respondent No.1 remained ex parte, the respondent No. 2, insurance company, contested the claim.

3. The Tribunal, considering the claim of the appellant, counter filed by the Insurance Company and on evaluation of oral and documentary evidence, allowed the O.P. in part, awarding a total compensation of Rs.1,92,000/- along with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of deposit. Seeking enhancement of compensation, the appellant-claimant has filed this appeal.

4. Heard the learned counsel for the appellant and the learned Standing Counsel for the respondent No. 2. Perused the material available on record.

5. The learned counsel for the appellant-claimant has submitted that although the claimant, by way of evidence of PWs.7, 9 and 10 and documentary evidence i.e., Exs.A.46 to A.58, proved that she sustained permanent disability due to the injuries sustained by her in the accident, the Tribunal

erred in granting only an amount of Rs.40,000/- under the head of pain and suffering and not considered the permanent disability sustained by the appellant and that the Tribunal ought to have granted just and reasonable compensation. It is further contended that the Tribunal ought to have seen that the appellant is entitled for an amount of Rs.1,33,702/- which incurred by her towards hospital and medical expenses, considering the nature of injuries sustained and the period of treatment obtained by the claimant. Therefore, the learned counsel seeks enhancement of compensation awarded by the learned Tribunal.

6. The learned Standing Counsel appearing on behalf of respondent No. 2 sought to sustain the impugned award of the Tribunal contending that considering the nature of the injuries sustained and the expenditure incurred by the claimant towards treatment & medicines, the learned Tribunal has awarded just and reasonable compensation and the same needs no interference by this Court.

7. There is no dispute with regard to the manner of the accident and the rash and negligent driving of the offending vehicle by its driver in causing the accident on 30.12.2002.

8. Perusal of the evidence available on record, it transpires that the petitioner/claimant was treated as out-patient initially at Osmania General Hospital as seen from Ex.A-46. Later she took treatment at Masab Tank Multi Specialty Hospital. As seen from Ex.A-49 discharge summary and Ex.A-52 Apollo hospital bills for Rs.27,113/-, she also took treatment from Care Hospital and Apollo Hospital. As seen from Exs.A-46 to A-59 certified copy of medico legal records of Osmania General Hospital, the petitioner/appellant sustained fracture of dislocation of left hip and fracture of left acetabulum. While answering issue No.2, with regard to the injuries sustained the claimant/appellant, the learned Tribunal has taken into consideration the evidence of the Doctor/PW-9 Dr.B.N.Prasad who conducted surgery on the claimant and her left hip was replaced with cemented total hip replacement at Care Hospital. According to the evidence of

this witness, for the fracture injuries sustained by the appellant in the accident, she underwent two operations. As seen from the evidence available on record, claimant has paid a sum of Rs.27,113/- to Apollo Hospital, Rs.4,314/- to Masab Tank Multi Speciality Hospital, Rs.47,995/- to Global surgicals, Rs.32,230/- to Care Hospital and Rs.22,050/- towards purchase of medicines and cost of tests undergone by her in various diagnostic centers. Taking into consideration the same, the Tribunal ought to have awarded a sum of Rs.1,33,702/- instead of awarding Rs.85,000/- towards hospital and medical expenses. Thus, the claimant is entitled for **Rs.1,33,702/-** towards hospital and medical expenses. The other amounts awarded by the Tribunal under various heads are not disturbed. But in the circumstances, the claimant is entitled to the enhanced amount of **Rs.2,40,702/-** without interest.

10. In the result, the M.A.C.M.A. is allowed in part by enhancing the compensation amount awarded by the Tribunal from Rs.1,92,000/- to **Rs.2,40,702/-**, 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.

There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE G.SRI DEVI

Date: 03.08.2022
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