

THE HON'BLE SRI JUSTICE PULLA KARTHIK

M.A.C.MA. No.2295 of 2007

JUDGMENT:

This appeal is filed by the claimant aggrieved by the judgment and decree passed in OP No.2 of 2005 dated 22.02.2007 on the file of Chairman, Motor Accidents Claims Tribunal (Principal District Judge), Nalgonda wherein the Tribunal had awarded a compensation of Rs.38,500/- as against the claim of Rs.75,000/- for injuries received in a motor vehicle accident that occurred on 21.11.2004.

2. The case of the appellant in brief:

On 21.11.2004 at 8.30 pm, the appellant, Tekulapally Sathamma, Kondapuram, Anthaiah, Kondapuram Kondamma and Pallapu Ramakrishna were proceeding in an auto rickshaw bearing No. AP 24 U 8863 from Mallepally to their village and when the said auto reached near Chennamanenipally village, one tractor bearing No. AP 24 J 5737 came from opposite direction in a

rash and negligent manner at high speed and dashed to the said auto on the right side, as a result of which the petitioner sustained fracture of right elbow joint, fracture of the upper end ulna right radius and grievous injuries all over the body. It is pleaded that immediately he was shifted to Government hospital, Deverkonda for treatment and on the same day he was admitted in Mother Theresa Hospital, Devarakonda for treatment. It is further pleaded that the other inmates of the said auto also received grievous injuries and one Sathamman died in the said accident.

3. It is further pleaded that prior to the accident, the petitioner was hale and healthy and earning Rs.3,000/- per month as labourer. On account of the accident, the petitioner sustained grievous injuries and now he is unable to do any work as he is completely bed ridden and permanently disabled.

4. The first respondent remained ex parte before the Tribunal.

5. The second respondent/insurance company filed its counter putting the appellants to strict proof of rashness and negligence attributed to the driver of tractor bearing No. AP 24 J 5737 and its involvement in the accident. It is further denied the nature of the injuries and nature of disability. It is pleaded that the insurance of the vehicle in question is not insured at the time of accident and the compensation is excessive.

6. Basing on the above pleadings the tribunal had framed following issues:

1. Whether the petitioner received injuries in the road accident? If so, whether the accident occurred due to rash and negligent driving of the driver of Tractor bearing No. AP 24 J 5737, by its driver?

2. Whether the petitioner is entitled to claim compensation? If so, what amount and from whom?

3. To what relief?

7. On behalf of the appellant, PW1 and 2 were examined and Ex.A1 to A4 were marked. On behalf of respondents, ExB1 copy of insurance policy was marked. Ex.C1 case sheet issued by Mother Theresa Ortho centre, Devarakonda was also marked.

8. On considering the evidence and material on record, the Tribunal was pleased to allow the petition in part awarding compensation of Rs.38,500/- with proportionate costs and interest at 7.5 % per annum from the date of petition till the date of realisation as below:

1. Grievous injuries (10,000x2)	Rs.20,000
2. Pain and suffering	Rs.2,000
3. Surgery charges and room rent	Rs.16,500
Total	Rs.38,500/-

9. Heard both sides and perused the record.

10. Appellant contends that the Tribunal erred in awarding a meagre compensation towards 2 grievous injuries. It is further contended that the Tribunal ought to

have awarded compensation towards loss of income, medical bills, transportation and pain and suffering and extra nourishment as claimed for.

11. Per contra, the respondent contends that the Tribunal had rightly passed the award of Rs.38,500/- based on the oral and documentary evidence on record. It is further contended that there is no error in the order of the Tribunal and requested to dismiss the appeal.

12. This court has taken note of the submissions made by respective parties.

13. As per Ex.A3 i.e. wound certificate issued by the Government hospital, Deverakonda, the appellant had sustained two grievous injuries and the Tribunal had not justified in awarding Rs.10,000/- to each grievous injury. Hence, this court is inclined to enhance it to Rs.25,000/- each. The Tribunal had not justified in awarding Rs.2,000/- under the head of pain and suffering and this court is of the opinion that it is appropriate to enhance the award of Rs.2,000/- to Rs.10,000/-, as the appellant was

in hospital from 21.11.2004 to 10.12.2004. Hence this court is inclined to award compensation of Rs.4,500/- towards loss of earnings for one month and this court holds that the appellant is entitled to Rs.5,000/- towards extra nourishment. The award is as under:

1.	Grievous injuries	Rs.50,000
2.	Pain and suffering	Rs.10,000
3.	Loss of income	Rs.4,500
4.	Extra nourishment	Rs.5,000
5.	Surgery charges and room rent	Rs.16,500
	Total	Rs.86,000/-

Accordingly the compensation awarded by the Tribunal is enhanced from Rs.38,500/- to Rs.86,000/-. The enhanced amount will carry interest at 7.5% p.a. from the date of petition till the date of payment against both the respondents jointly and severally subject to the appellants paying the court fee on the enhanced amount.

14. With these observations appeal is disposed of. There is no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE PULLA KARTHIK

Date: 23-12-2022
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