

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.1244 of 2015

JUDGMENT:

Not being satisfied with the quantum of compensation awarded by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge(FTC) at Nizamabad in O.P. No.757 of 2009, dated 01.07.2013, the present appeal is filed by the claimant seeking enhancement of compensation.

2. According to the petitioner, on 30-03-2008 at about 4.00 p.m. near Ganjal while he was proceeding on TVS Super motorcycle bearing No. AP.25.2308, APSRTC bus bearing No. AP.28.Z.3099 gave dash to his motorcycle, due to which he sustained grievous injuries and immediately he was shifted to Government Hospital, Nirmal and from there to Arun Hospital, Nizamabad where he underwent operations and incurred Rs.50,000/- for his treatment. Thus, he is claiming compensation of Rs.2,00,000/- under various heads.

3. Respondents-Corporation filed counter disputing the manner of accident and the nature of injuries sustained by the petitioner.

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

1. Whether accident has taken place due to rash and negligent driving of APSRTC bus bearing No. AP.28.Z.3099 by its driver?

2. Whether the petitioner is entitled for compensation, if so, to what just amount and against whom?

3. To what relief?

5. In order to prove the issues, PWs.1 to 3 were examined and Exs.A1 to A15 got marked on behalf of the petitioner. Nor oral or documentary evidence was produced on behalf of the respondents-Corporation.

6. Considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.80,000/- towards compensation to the appellant-claimant against the respondents-Corporation, along with proportionate costs and with pending and future interest @

7.5% per annum, as against the claim of Rs.2,00,000/- laid by the appellant-claimant for the injuries sustained by him in a road accident that occurred on 30.03.2008.

7. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the respondents- Andhra Pradesh State Road Transport Corporation. 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 to 3 and Exs.A.1 to A.15, established the fact that the petitioner has sustained fracture injuries in the accident, the Tribunal awarded very meager amount of Rs.80,000/- under various heads.

9. The learned Standing Counsel appearing on behalf of respondents-Corporation sought to sustain the impugned award of the Tribunal contending that considering the nature of injuries sustained by the petitioner, the learned Tribunal has awarded just and reasonable compensation and the same needs no interference by this Court.

10. Admittedly, there is no dispute with regard to the manner of accident and the involvement of the RTC bus. Now the only dispute is enhancement of compensation.

11. A perusal of the evidence available on record, PW-2 Doctor who treated the petitioner deposed that the petitioner has sustained i) contusion and fracture occipital bone, ii) contusion and fracture of both nasal bone and iii) contusion and frontal bone on left side. Further PW-2 in his cross-examination stated that he referred the petitioner to higher center and Neuro Surgeon, on which the petitioner approached Dr.Harish Jadav. It is the evidence of PW-3 Doctor, that on 30.10.2008 he examined the petitioner's brain at Amrutha CT Scan and found fractures involving both nasal bones, frontal bone on left side and occipital bone right side and also found cerebral oedema. However, considering the evidence of PWs.1 to 3 coupled with the documentary evidence available on record, the Tribunal has awarded a sum of Rs.45,000/-, towards pain and sufferance, which is very meager. Thus, considering the nature of injuries sustained by the petitioner, an amount of

Rs.75,000/- i.e., Rs.25,000/- to each injury is awarded to the petitioner for the injuries received by him. Further an amount of **Rs.20,000/-** is awarded towards pain and sufferance. Further considering the treatment taken by the injured and the amount spent by him, an amount of **Rs.9,300/-** is awarded towards medical bills, an amount of **Rs.10,000/-** is awarded towards extra nourishment and transport charges and **Rs.5,000/-** is awarded towards attendant charges. During the treatment period, the petitioner might have lost his earnings for a period of three months. Therefore, an amount of **Rs.15,000/-** is awarded to the petitioner towards loss of earnings for three months @ Rs.5,000/- per month. Thus in all the petitioner is entitled for an amount of **Rs.1,34,300/-**.

12. In the result, the M.A.C.M.A. is allowed in part by enhancing the compensation amount awarded by the Tribunal from Rs.80,000/- to **Rs.1,34,300/-**. The enhanced amount shall carry interest at 7.5% p.a. from the date of this Order 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.

JUSTICE M.G.PRIYADARSINI

26.09.2022
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