

THE HON'BLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 112 of 2014

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the order and decree of the XXII Additional Chief Judge-cum-Motor Accidents Claims Tribunal, City Civil Courts, Hyderabad passed in O.P.No. 1168 of 2010, dated 01.10.2013.

Vide aforesaid order, the Tribunal has awarded an amount of Rs.3,18,187/- towards compensation to the appellant-claimant against the respondents herein who are owner and insurer of the offending vehicle i.e., TVS Scooty bearing registration No. AP-12J-6198, jointly and severally, along with proportionate costs and interest @ 9% per annum from the date of filing the petition till realization of the amount for the injuries received by him in a road accident that occurred on 15.02.2010.

Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the respondent No. 2, Insurance Company. Perused the material available on record.

The only contention of the learned counsel for the appellant-claimant is that in order to establish the fact that on

account of the injuries suffered by the appellant, he had suffered permanent disability at 30%, Ex.X.1, disability certificate, was produced and the same was substantiated with the evidence of P.W.4, the doctor, who categorically deposed that the claimant sustained 30% disability. However, the tribunal without there being any valid reason brushed aside the said evidence and did not award the compensation under the head of disability merely because no scientific reason was assigned by P.W.4 for assessment of such disability. Therefore, the learned counsel prays to award just and reasonable compensation under the head of disability, duly taking into account the monthly income of the appellant and applying multiplier '15' considering his age.

The learned Standing Counsel appearing on behalf of respondent No. 2 sought to sustain the impugned award contending that inasmuch as P.W.4, doctor, who issued Ex.X.1, disability certificate, did not specify the scientific reasons as to how he arrived 30% disability, the tribunal has rightly rejected the claim for disability and therefore, there is no reason to interfere with the said findings arrived at by the tribunal.

The finding of the Tribunal with regard to the manner in which the accident took place has become final as the

same is not challenged either by the owner or insurer of the offending vehicle. Even the learned counsel for the appellant is not disputing the quantum of compensation awarded by the tribunal except the rejection of claim under the head permanent disability.

Therefore, this Court is inclined to consider the aspect whether or not the claimant is entitled for compensation under the head of loss of income due to disability. Ex.A.3, Medico Legal Record, discloses that there were swelling injuries to the right leg. Ex.A.4, discharge summary, issued by Yashoda Hospital, discloses that the claimant was admitted on 15.02.2010 and was discharged on 18.02.2010. He was suffered fracture of Shaft of Tibia (right) and right Fibula and that he was operated for the said fracture injuries. The evidence of P.W.2, doctor who treated PW-1, discloses that the claimant suffered shortening of 1.2 cms right leg. However, P.W.4, another doctor, who issued Ex.X.1, disability certificate, deposed that the claimant sustained disability at 30%. On the ground that P.W.4 did not indicate scientific reason as to how he arrived at 30% disability, the tribunal did not consider the said evidence and also Ex.X.1. However, the fact remains that the medical evidence, more particularly, the evidence of P.W.2 clearly discloses that the

claimant suffered shortening of 1.2 cms. of right leg. In these circumstances, considering the evidence of P.Ws.2, 4 and Ex.X.1, this Court is inclined to fix the disability of the claimant at 25%.

As regards the income of the claimant, considering the educational qualifications of claimant, as reflected under Ex.A.12 and A.13, the tribunal has rightly fixed the monthly income of the claimant at Rs.15,000/-. Admittedly, the claimant was 36 years as on the date of accident. Therefore, the appropriate multiplier is '15'. Hence, the loss of income on account of disability suffered by the claimant comes to Rs.6,75,000/- ($\text{Rs.15,000} \times 12 \times 15 \times 25/100$). Therefore, under the head of disability, the claimant is granted a sum of Rs.6,75,000/-. The amount of Rs.3,18,187/- awarded by the tribunal under other heads and the rate of interest awarded thereon are not interfered with. Thus, in all, the claimant is entitled for the total compensation of Rs.9,93,187/-.

The M.A.C.M.A. is allowed in part enhancing the quantum of compensation awarded by the tribunal from Rs.3,18,187/- to Rs.9,93,187/-. The enhanced amount shall carry interest at the rate of 7.5% per annum from the date of the order passed by the tribunal till the date of realization. The amount shall be deposited within a period of two months from the date of receipt

of a copy of this order. On such deposit, the claimant is permitted to withdraw the said amount. No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.G. PRIYADARSINI

29.11.2022
tsr

THE HON'BLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 112 of 2014

DATE: 29-11-2022