

THE HON'BLE JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 591 of 2014

JUDGMENT:

This appeal is filed by the claimant, injured, aggrieved by the judgment and decree, dated 23.08.2010 made in M.V.O.P.No. 1156 of 2004 on the file of the II Additional District & Sessions Judge (Fast Track Court) at Nizamabad (for short, the Tribunal).

For the sake of convenience, hereinafter, the parties are referred to as per their array before the Tribunal.

The claimant filed a petition under Section 173 of the Motor Vehicles Act claiming compensation of Rs.3.00 lakhs towards compensation for the injuries sustained by him in a motor vehicle accident that occurred on 15.05.2004. According to the claimant, on 15.05.2004, while he was traveling, along with his friend, on the Motor cycle bearing No. AP 10P 5416 and reached Galib nagar village, the offending vehicle i.e., Auto bearing No. AP 25U 7230, which was coming from opposite direction in high speed in rash and negligent manner, dashed the motor cycle. As a result, the claimant fell down and received multiple injuries, including fracture to his left leg, fracture of second metacarpal ring finger. He was treated at Government Hospital, Nizamabad. According to him, due to the accident, he was unable to attend his regular

works as he sustained permanent disability and therefore, he filed the claim petition against the respondent No. 1, owner of the vehicle and respondent No. 2, insurer, seeking compensation under different heads.

Before the Tribunal, while the respondent No. 1 remained ex parte, respondent No. 2, contested the claim denying the averments of the claim petition and contended that the amount claimed is excessive and prayed for dismissal of the claim petition.

Considering the claim, counter and the evidence, both oral and documentary brought on record, the tribunal has allowed the O.P. in part awarding a sum of Rs. 32,200/- towards compensation. Seeking further enhancement of compensation, the claimant approached this Court with the present appeal.

Heard both sides and perused the material available on record.

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 vehicle.

The short question that arises for consideration in this appeal is “*whether the compensation awarded by the Tribunal is just and equitable*”?

The only contention advanced by the learned counsel for the appellant-claimant is that the claimant has sustained fractures to his left leg apart from other grievous injuries, and as per the evidence of P.W.2, doctor, the claimant sustained two fractures and injury to left shoulder with abrasion and to that effect he had issued Ex.A.3, injury certificate. It is further contended that even the amount granted under the heads of pain & suffering is meager and the tribunal has not awarded any amount towards transportation, attendant charges and extra nourishment.

On the other hand, the learned Standing Counsel for the Insurance Company has contended that considering the nature of injuries and length of treatment, the tribunal has adequately awarded the compensation and therefore, the learned Standing Counsel sought for dismissal of the appeal.

As seen from the record, the claimant had sustained injury to left thigh, fracture of femur bone, injury to left hand with fracture of second metacarpal ring finger and injury to left

shoulder with abrasion. P.W.2, Doctor of Government Hospital, who treated the claimant, had deposed that the claimant had sustained two fractures on left leg. However, the tribunal has awarded only Rs.10,000/- which is meager. So also, the amounts of Rs.10,000/- awarded by the tribunal under the head of pain and suffering is also meager considering the nature of injury and the length of treatment. Therefore, this Court is inclined to enhance the quantum of compensation as under:-

Sl.No.	Nature of head	Amount awarded by tribunal	Amount now awarded by this Court
1.	Compensation for sustained injuries	Rs.10,000	Rs.50,000
2.	Pain & suffering	Rs.10,000	Rs.20,000
3.	Compensation for Medical expenses	Rs.5,000	Rs.5,000
4.	Compensation for temporary deprivation of earnings	Rs.7,200	Rs.7,200
5.	Transport, attendant charges & extra nourishment	---	Rs.12,500
	Total	Rs.32,200	Rs.94,700

In the result, the MACMA is allowed in part enhancing the compensation from Rs.32,200/- to Rs.94,700/-. The enhanced compensation shall carry interest at 7.5% per annum from the date of order of the tribunal till the date of realization. The respondents are directed to deposit the amount within two months from the date of receipt of a copy of this order. On such deposit, the claimant is entitled to withdraw the said amount. No order as to costs.

Pending Miscellaneous petitions shall stand closed.

JUSTICE M.G. PRIYADARSINI

13.12.2022
Chs/tsr

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DATE:13-12-2022