

THE HON'BLE SRI JUSTICE PULLA KARTHIK

M.A.C.MA. No.2690 of 2006

JUDGMENT:

This appeal is filed by the claimant challenging the judgment and decree passed in O.P. No. 1658 of 2002, dated 25-07-2006 on the file of the Chairman, Motor Accidents Claims Tribunal (V-Additional District Judge) at Nizamabad, wherein, the Tribunal had awarded a sum of Rs.10,000/- as compensation as against the claim of Rs.1,50,000/- for the injuries sustained by the petitioner in a motor vehicle accident that occurred on 8.10.2002.

2. The case of the appellant in brief:

The appellant is represented by his natural guardian/father filed claim petition under section 166 (1) (a) of Motor Vehicle Act, 1988 stating that the petitioner is aged about 03 years and resident of Satisnagar, Nizamabad town. On 08-10-2002, the petitioner along with one Younus Khan at about 7-30 A.M. were crossing the road on cycle in front of Taj Dhabha, Arsapally, Nizamabad. At the

same time the crime jeep came with high speed in a rash and negligent manner and dashed to the said cycle. As such both petitioner and said Yousuf Khan was paddling cycle fell down and sustained injuries. Due to which the petitioner sustained grievous injuries on his right eye, injuries on head, face, hands and other parts of the body. Immediately he was shifted to Government hospital, Nizamabad and from there he was shifted to private nursing home. It is pleaded that he was treated as inpatient in private Nursing home and so far, an amount of Rs. 80,000/- for medical expenditure was spent. It is further pleaded that the petitioner was hale and healthy at the time of accident. Because of fracture injuries the petitioner sustained permanent disability and his parents were subjected to mental agony and hardship.

3. The 1st respondent remained exparte, before the Tribunal.

4. The 2nd respondent/Insurance company had filed its counter denying the manner of accident as well as rash

and negligent driving of the driver of the crime vehicle. It was also denied the age of the petitioner, number of injuries, nature of injuries, duration of treatment, alleged disability and expenses incurred for the alleged treatment.

5. Basing on the above pleadings the Tribunal has framed three issues as follows:

1. Whether the accident was due to the rash and negligent driving of the jeep bearing No.AP-25-U-3056 by its driver?
2. Whether the petitioner is entitled for compensation? If so, what amount and against which of the respondents? and
3. To what relief?

6. At the time of trial, to prove the case of the petitioner, Shaik Mahaboob/father of the petitioner filed his affidavit Under Order XVIII Rule-4 CPC as examination-in-chief as PW-1 and got marked Ex.A-1 to Ex.A-25.

7. On behalf of the, respondent No.2 filed Ex.B-1 copy of the policy marked with the consent of the petitioner.

8. Heard both sides and perused the record.

9. The appellant contends that the Tribunal failed to decide the quantum of compensation and awarded a meagre compensation of Rs.10,000/- instead of awarding entire claim of 1,50,000/-. It is further contended that though the Tribunal appreciated the evidence of the PW1 and Ex.A-1 to Ex.A-25 but failed to award a reasonable compensation. It is further contended that though the Tribunal appreciated the evidence that the appellant has amply proved that on 08-10-2002, because of the accident caused by the respondent, the appellant sustained grievous injuries on his right eye, injuries on head, face, hands and other parts of the body and incurred an amount of more than Rs.80,000/- towards medical expenditure but the Tribunal failed in awarding reasonable compensation.

10. In contra, the respondent contends that the Tribunal had passed the award on the basis of evidence and material on record. As per Ex.A-3 i.e., injury certificate issued by the doctor the appellant had sustained simple injuries only and the Tribunal on the basis of Ex.A3 had rightly passed an award of Rs.10,000/-. It is further contended that there is no error in the order of the Tribunal and requested to dismiss the appeal.

11. This Court has taken note of above submissions made by the respective parties.

12. As per the evidence of PW1, and Ex.A-24, the petitioner was admitted on 08-10-2002 and discharged on 12-10-2002. Further Ex.A-7 to A-23 are the medical bills marked on behalf of the appellant itself shows that he might have spent certain amount for medicines. In view of the above this Court is of the view that it is appropriate to award Rs.10,000/- towards medical bills.

13. As per Ex.A3 i.e. certified copy of wound certificate the petitioner had sustained one simple injury admeasuring 2"x2" on the left side of the fore head. Hence the Tribunal had rightly awarded Rs.10,000/- towards one simple injury. Admittedly the petitioner had taken treatment as inpatient for 2 ½ months and he might have taken 15 days bed rest. In view of the above, the claimant is entitled to Rs.3,000/- per month towards attendant charges which comes to Rs.3,000x3=Rs.9,000/- and this court is inclined to award Rs.5,000/- towards extra nourishment.

14. With the above modifications the appeal is disposed of. The award of Tribunal Rs.10,000/- is enhanced to Rs.34,000/-. There is no order as to costs.

Pending miscellaneous petitions, if any, in this MACMA shall stand closed.

JUSTICE PULLA KARTHIK

Date: 14-10-2022
ASR