

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

M.A.C.M.A. No. 2528 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 Motor Accidents Claims Tribunal-III Additional Chief Judge, City Civil Court, Hyderabad (for short, 'the tribunal') passed in O.P.No. 1638 of 2007, dated 08.06.2009.

Vide aforesaid order, the Tribunal has awarded an amount of Rs.2,90,000/- towards compensation to the appellant-claimant against the respondents herein who are owner and insurer of the offending vehicle i.e., Maruti Car bearing No. AP 10J 9948, jointly and severally, along with proportionate costs and interest @ 7.5% 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 14.01.2007.

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 40%, Ex.A.8, disability certificate, was produced and the same was substantiated with the evidence of P.W.2, the doctor, who categorically deposed that the claimant sustained 40% 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 he was government employee. It is contended that the claimant is only an attender and the disability sustained in the accident definitely affect his working performance and future promotional aspects. 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 '14' considering his age.

The learned Standing Counsel appearing on behalf of respondent No. 2 sought to sustain the impugned award contending that P.W.2 is not a government doctor and that Ex.A.8 is not issued by competent Medical Board and therefore, the tribunal has rightly rejected the claim under the head of 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. As seen from the medical record, the claimant had sustained (i) fracture of shaft lower 3rd right femur; (ii) fracture of middle 3rd left femur; and (iii) fracture of right tibial fracture. The same is spoken to by the doctor, P.W.2 who gave treatment to PW1/claimant. He further deposed that the injuries suffered by the claimant are grievous in nature. Ex.A.8 is the disability certificate, whereunder, the doctor has opined that the claimant had sustained 40% permanent disability. Merely because, the claimant is holding a permanent nature of job, it cannot be a ground to deny the claim for loss of income due to disability, more particularly, when the claimant is a Class-IV employee. However, considering the evidence of P.W.2, coupled with Ex.A.8 and nature of injuries, this Court is

inclined to fix the disability suffered by the claimant at 15%. Ex.A.9, salary certificate, discloses that the claimant was earning Rs.10,000/- per month. His age was 41 years by the time of accident. Hence, under the head of loss of income due to disability, the claimant is awarded a sum of Rs.2,52,000/- ($\text{Rs.10,000} \times 12 \times 14 \times 15/100$). The amount of Rs.2,90,000/- 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.5,42,000/-.

The M.A.C.M.A. is allowed enhancing the quantum of compensation awarded by the tribunal from Rs.2,90,000/- to Rs.5,42,000/-. 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

01.12.2022

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DATE: 01-12-2022