

THE HON'BLE SRI.JUSTICE PULLA KARTHIK

M.A.C.MA. No.1558 of 2007

JUDGMENT:

The appeal is filed by the claimants seeking enhancement of the compensation, aggrieved by the Judgment and decree passed in M.V.O.P.No. 1966 of 2005 dated 09-01-2007 on the file of the Chairman, Motor Accidents Claims Tribunal-Cum-V Additional District Judge, at Warangal, wherein the Tribunal had awarded compensation of Rs.60,000/- as against the claim of Rs.2,50,000/- for the injuries sustained by him in a motor vehicle accident that occurred on 6.11.2004.

2. The case of the appellant in brief:

The appellant had filed petition under section 166 of M.V.Act, 1988 read with Rule 455 of APMV Rules 1989 claiming compensation of Rs.2,50,000/- contending that there was an accident on 06-11-2004 at about 8.00 a.m. on the road leading from Peddapuram to Musthalapalli at Akkampet Canal Bridge, and that the accident was due to

rash and negligent driving of the driver of the Hero Honda motor cycle bearing AP 36 G 8419 and that in the said accident, he received multiple injuries which resulted in permanent disability.

3. The respondent No.1 remained exparte before the Tribunal.

4. The respondent No.2/Insurance company filed counter denying the contention of the petitioner.

5. Basing on the above pleadings the following issues are framed:

1. Whether the accident was due to rash and negligent driving of vehicle bearing No. AP 36 G 8419 (Hero Honda) driven by its driver, as per Section 166 of M.V.Act?
2. Whether the petitioner is entitled for compensation? If so, to what amount and from whom?
3. To what relief?

6. To prove his case the appellant/petitioner himself deposed as PW1 and one Dr. G. Krishna Murthy, who treated the appellant/petitioner, was examined as PW2. Exs.A1 to A8 and Ex.X1 were got marked, and Ex.B1 copy of insurance policy marked by consent.

7. Heard both sides and perused the record.

8. The appellant contends that the Tribunal while passing award has not considered the Ex.A2/Medical certificate, which certifies that injuries No.2,3,4 are grievous and injuries No.1 and 5 are simple in nature. It is further contended that as per the law laid down by the Apex Court, the appellant/petitioner is entitled an award towards each injury.

9. In contra, the respondent contends that the Tribunal had rightly passed an award on the basis of the oral and documentary evidence. It is further contended that there is no error in the order of the Tribunal and requested to dismiss the appeal.

10. This court has taken note of the submissions made by the respective parties.

11. According to PW2, Dr.G.Krishna Murthy, Orthopaedic surgeon in Sri Sai Nursing Home, Warangal who treated the appellant stated that the appellant was admitted in the hospital on 6.11.2004 with the following 5 injuries:

1. Lacerated wound 20x5 Cms on the right knee joint
2. Chip fracture patella (right)
3. Chit Fracture right femur lateral condyle
4. Fracture neck of the humerus on right side.
5. Lacerated wound 5x3x2 cms. Over right cheek.

According to him the injuries no.2, 3, 4 are grievous in nature. Injury no.1 and 5 are simple in nature. Hence the appellant is entitled to Rs.25,000/- for each grievous injury for 3 grievous injuries i.e. which comes to Rs.25,000x3=75,000/- and injury no.1 and 5 are simple in nature. Hence the appellant is entitled to 5,000/- each injury i.e. 5,000x2=10,000/-. PW2 deposed that on 27.11.2004 he was operated for injury no.1 by skin

grafting and issued Ex.A2. He also further deposed in respect of Ex.A5 i.e. discharge summary and Ex.A6 discharge bill issued by the hospital, hence this court is inclined to award Rs.27,500/- towards discharge medical bill.

12. According to PW1 he was admitted on 6.11.2004 and discharged on 6.12.2004 with an advise to take bed rest for 3 months and regular follow up treatment. According to PW1 he was a mason and he used to earn Rs.4,000/- per month as the petitioner did not produce any evidence in respect of his nature of work and his income the Tribunal awarded an amount of Rs.10,000/- towards loss of earnings. As per the record he was in hospital for one month i.e. from 6.11.2004to 6.12.2004 and according to PW1 he has to take 3 months bed rest and follow up treatment. In view of the above this court is of the opinion that it is appropriate to award Rs.18,000/- towards loss of earnings @ 4,500/- per month for 4 months and this court is inclined to award Rs.1,000/- towards transportation to the hospital.

13. Admittedly, the appellant was in hospital from 06-11-2004 to 06-12-2004. The Tribunal had not justified in awarding compensation of Rs.10,000/- towards pain and suffering. Hence this court feels that it is appropriate to enhance it into Rs.25,000/- towards pain and sufferings. Therefore this court enhanced the compensation for injuries from 30,000/- to 85,000/-. Loss of earnings from Rs.10,000/- to 18,000/- and pain and suffering from Rs.10,000/- to Rs.25,000/-.

14. The amount and account of figures is as follows:

1.	Medical bills	Rs. 27,500
2.	Grievous injuries (3)	Rs.75,000
3.	Simple injuries (2)	Rs.10,000
4.	Pain and suffering	Rs.25,000
5.	Loss of earnings	Rs.18,000/-
6.	Medical and extra nourishment	Rs.10,000/-
	Total	Rs.1,65,500/-

15. With the above modifications, the appeal is disposed of and the compensation is enhanced from Rs.60,000/- to

Rs.1,65,500/-. The enhanced amount will carry interest at 7.5% p.a. till the date of payment. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE PULLA KARTHIK

Date: 03-11-2022
ASR