

THE HON'BLE JUSTICE G. SRI DEVI

M.A.C.M.A. No.1251 of 2014

JUDGMENT:

Dissatisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal (Principal District Judge) at Warangal in M.V.O.P. No.1043 of 2009, dated 16.05.2013, the present appeal is filed by the claimant.

2. Vide aforesaid order, the Tribunal has awarded an amount of Rs.1,98,000/- towards compensation to the appellant-claimant against the respondents herein who are owner and insurer of the offending vehicle i.e., Matador Van bearing No. AP 10 D 7241, jointly and severally, along with proportionate costs and interest @ 9% per annum from the date of filing the petition till realization of the amount, as against the claim of Rs.3,00,000/- laid by the appellant-claimant for the injuries suffered by him in a road accident.

3. According to the claimant, on 9.4.2007 while the petitioner was traveling along with his friends and relatives in Matador Van bearing No. AP 10 D 7241 from Chinna Gudur to Mahabubabad and when the said van reached near Jangiligonda

cross road, in the meanwhile, one Tractor and Trailer bearing No. AP 36 U 3923 and 3924 came in opposite direction, without putting on the headlights and without giving any margin to the oncoming vehicles, in rash and negligent manner and dashed against the Van, as a result of which, the petitioner and other inmates of the Van sustained injuries. Immediately after the accident, the petitioner was shifted to Civil Area Hospital, Mahabubabad and after first aid, he was referred to M.G.M. Hospital, Warangal, for treatment and as the Doctors at M.G.M. Hospital, Warangal, have not allowed him into the said hospital, he was taken to NIMS, Hyderabad, and there he took treatment from 10.4.2007 to 7.5.2007 and spent huge amount towards hospital charges, medicines and treatment. Hence, he laid a claim for Rs.3,00,000/- towards compensation.

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

The learned counsel for the appellant-claimant has submitted that although the claimant, by way of documentary evidence i.e., Exs.A.1 to A.6, proved that he had sustained fracture of 2nd to 5th metacarpals of right hand, fracture of right hip and fracture of right leg with both bones and had taken treatment in NIMS, Hyderabad from 10.4.2007 to 7.5.2007 and spent huge amount towards his treatment, the Tribunal ought to have granted just and reasonable compensation. It is contended that considering the nature of injuries and the period of treatment obtained by the claimant, the Tribunal ought to have awarded the amount of Rs.3,00,000/- as claimed by the appellant.

The learned Standing Counsel appearing on behalf of respondent No. 2 sought to sustain the impugned award of the Tribunal contending that considering the nature of the injuries sustained and the expenditure incurred by the claimant towards treatment & medicines, the learned Tribunal has awarded just and reasonable compensation and the same needs no interference by this Court.

There is no dispute with regard to the manner of the accident and the rash and negligent driving of the offending vehicle by its driver in causing the accident.

As regards the quantum of compensation, as seen from the medical evidence on record vide Exs.A.2 to A.4, the claimant had sustained fracture of 2nd to 5th metacarpals of right hand, fracture of right hip and fracture of right leg with both bones. Considering the fractures and other injuries sustained by the petitioner, the Tribunal awarded an amount of Rs.1,16,000/- towards medical expenses, Rs.3,000/- towards extra nourishment and attendant charges, Rs.9,000/- towards loss of earnings and Rs.70,000/- towards pain and suffering and mental agony.

The Tribunal while assessing the compensation has rightly awarded a sum of **Rs.1,16,000/-** towards medical expenses incurred by him by admitting in the hospital from 10.4.2007 to 7.5.2007 i.e., for a period of 28 days. Admittedly, the petitioner during this period had undergone two surgeries on 21.4.2007 and 27.4.2007, but the Tribunal has awarded a sum of

only Rs.3,000/- towards extra nourishment which appears to be too meager. During this period, the petitioner might have utilized the services of an attendant and also spent some amount towards transport charges and some more amount towards extra nourishment. Hence, this Court deems it fit to award a total sum of **Rs.15,000/-** towards transportation charges, extra nourishment and attendant charges instead of Rs.3,000/- as awarded by the Tribunal.

Admittedly, the petitioner had sustained fracture of 2nd to 5th metacarpals of right hand, fracture of right hip and fracture of right leg with both bones. However, the Tribunal after assessing the entire evidence on record and the nature of work of the petitioner/claimant, has awarded a sum of Rs.70,000/-, which appears to be enhanced to some extent looking into the nature of injuries sustained by the petitioner/claimant. Thus, this Court deems it fit to enhance the said amount to **Rs.1,00,000/-** instead of Rs.70,000/-. The amount awarded towards loss of earnings **Rs.9,000/-** is not disturbed. Thus in total, the petitioner is awarded compensation of **Rs.2,40,000/-**.

In the result, the M.A.C.M.A. is allowed in part by enhancing the compensation amount awarded by the Tribunal from Rs.1,98,000/- to Rs.2,40,000/-. The enhanced amount shall carry interest at 7.5% p.a. from the date of order passed by the Tribunal till the date of realization, payable by respondent Nos. 1 and 2 jointly and severally. The amount shall be deposited within a period of one month from the date of receipt of a copy of this order. On such deposit of compensation amount by the respondents, the claimant is at liberty to withdraw the same without furnishing any security. No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE G. SRI DEVI

08.06.2022

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