

THE HON'BLE DR. JUSTICE D.NAGARJUN

M.A.C.M.A. No.2367 of 2009

JUDGMENT:

This appeal is filed by the appellant/claimant aggrieved by the orders dated 25.03.2008 in O.P.No.889 of 2004 passed by the Motor Accidents Claims Tribunal (District Judge), Nizamabad (for short, "the Tribunal"), whereunder the appellant sought compensation of Rs.3 lakhs on account of the injuries sustained by him in a motor vehicle accident for which the learned Tribunal has granted an amount of Rs.20,000/-.

2. The learned Tribunal while considering issue No.1 as to whether the injuries received by the appellant were received on account of rash and negligent driving of the driver of the crime vehicle bearing No.AP 25T 9671 has concluded that on 14.02.2003 when the appellant was traveling in an Auto bearing No.AP 25T 9671 from Nizamabad to Makloor, at the scene of offence at 5.30 a.m. the driver of the Auto lost control and dashed against one Andey Prasad coming in opposite direction and thereafter the auto turned turtle, due to which the said Prasad received grievous injuries and died on the spot, whereas the appellant and other inmates of the Auto received injuries.

3. In respect of issue No.2 i.e., with regard to grant of compensation to the injuries sustained by the appellant, the learned Tribunal while referring to the evidence of the appellant as PW.1 has observed that the appellant has sustained injuries on his left hand, fracture injuries to right hand, right ankle, left elbow, injuries to head and other parts of the body. The appellant was taken to Amrutha Laxmi Hospital, wherein he was treated by Dr. T. Narsing Rao and the treatment was still continuing and he has already spent Rs.2 lakhs towards treatment. Dr. T. Narsing Rao, who has treated the appellant, has given a certificate under Ex.A2 to the effect that the appellant has received fracture of humerus left elbow and both bones of lower 1/4th of right ankle, which are grievous in nature. In addition to that the appellant has also filed disability certificate under Ex.A4 given by Dr. V. Akilesh that the appellant has sustained 20% of partial permanent disability on account of fracture of left humerus and fracture of both bones of 1/4th of right angle united with restricted painful extension of last 10 degree left elbow and painful ankle dislocation. The appellant has also filed copy of x-ray under Ex.A5. The appellant has submitted that he underwent two operations by spending Rs.1,50,000/-. However, the learned Tribunal while

declining to consider the oral evidence of the appellant stating that he has not filed any documents like prescription, case sheet, discharge summary, medical bills etc., thereby all the injuries received are treated to be simple in nature and awarded an amount of Rs.10,000/- each to two simple injuries towards pain and suffering. Aggrieved by the same, the present appeal is filed stating that Ex.A2 – wound certificate shows that the injuries received are grievous in nature and the disability certificate was not considered.

4. It is true that the appellant has not filed documents like case sheet, medical bills, prescription etc. Those documents actually reflect the money spent for the treatment and number of days he was taking treatment etc. However, it is to be seen that a person like the appellant, who is perhaps a villager, may not be having an idea to store, keep and preserve the documents with an intention to submit them in a case like this seeking compensation for injuries sustained by him. However, the appellant could have filed a certificate under Ex.A2 issued by Dr. Narsing Rao to the effect that he has received fracture of humerus left elbow and both bones of lower 1/4th of right ankle and both the injuries are grievous in nature. The appellant has

also filed x-ray, which would certainly show whether the injuries are grievous in nature.

5. Therefore, on account of the fact of not filing the bills, discharge summary etc., considering the fact that Ex.A2 denotes that there are two grievous injuries, the learned Tribunal could have awarded amount for pain and sufferings for receiving two grievous injuries. Considering the same, an amount of Rs.25,000/- each to the two grievous injuries is awarded instead of Rs.10,000/- each, which the learned Tribunal considered the injuries as simple. In addition to that on account of these fracture injuries, the appellant must have lost income on account of not working and also must have spent some amount towards transportation and taking nutritious food and for purchasing the medicine etc. The learned Tribunal has not granted any amount under these heads.

6. Therefore, considering the circumstances that the appellant has received two grievous injuries, an amount of Rs.30,000/- randomly is granted towards transportation, nutritious food and purchasing medicines etc. Since the appellant has not examine any doctor, who has given the disability certificate or any other doctor to speak about his

disability, the learned Tribunal has rightly not considered the said claim.

7. Considering the facts and circumstances of the case, the compensation awarded by the Tribunal is enhanced as under:

1. The amount of Rs.10,000/- each awarded towards the two grievous injuries is enhanced to Rs.25,000/- each totaling to Rs.50,000/- and an amount of Rs.30,000/- random is granted towards transportation, nutritious food, purchasing of medicines etc.
2. In all the appellant is entitled for Rs.80,000/- (Rupees eighty thousand only). So far as the rate of interest awarded by the Tribunal is concerned, the same remains as it is.

With the above, the appeal is allowed in part.

Miscellaneous applications, if any, shall stand closed.

DR. D.NAGARJUN, J

Date: 02.09.2022
ES