

THE HON'BLE SRI.JUSTICE PULLA KARTHIK

M.A.C.MA. No.2670 of 2007

JUDGMENT:

This appeal is filed by the claimant, aggrieved by the judgment and decree passed in O.P.No. 153 of 2005, dated 27-07-2007 on the file of the Chairman Motor Accidents Claims Tribunal (II Additional District Judge) (Fast Track Court)), Nizamabad, wherein the Tribunal had awarded a compensation of Rs.50,000/- as against the claim of Rs.3,00,000/- on account of the injuries sustained by the appellant in the Motor Vehicle Accident that occurred on 28-08-2004.

2. The case of the appellant in brief:

On 28.8.2004 at about 8.00 PM, the petitioner along with others were travelling in a Tata Sumo vehicle bearing No. AP 25 U 1276 from Nizamsagar towards Nizamabad. When they reached canal turning at Navsullabad. The driver of the offending vehicle drove the same in a rash and negligent manner at high speed and dashed a scooter

coming in opposite direction. Later the offending vehicle turned turtle and the petitioner and the other inmates of the offending vehicle sustained injuries. It is pleaded that the petitioner sustained fracture of right thumb phalange, fracture of right shoulder joint and fracture of right leg femur and injuries on right side of chest, left wrist, head, back, chest, legs and other parts of the body. Immediately after the accident he was shifted to Government hospital, Bhainsa. Thereafter, he took treatment in private nursing home and underwent several operations and rods were inserted and incurred an expenditure of Rs.8,000/- towards medical expenditure. It is pleaded that prior to the accident the petitioner was hale and healthy and was doing agriculture and business and earning more than Rs.10,000/- per month.

3. The respondent No.1/owner of the offending vehicle remained exparte before the Tribunal.

4. 2nd respondent/insurance company filed its counter denying the averments of the petition, manner of accident,

occupation and income of the appellant and the injuries said to have been sustained by the appellant.

5. On considering the evidence and material on record, the Tribunal had awarded a compensation of Rs.50,000/- to the appellant payable by the respondent No.1 and 2 with proportionate costs and interest @7.5% per annum from the date of the petition to the date of realisation as under:

1. Injuries	Rs.35,000
2. Pain and sufferings	Rs.5,000
3. Treatment expenditure	Rs.5,000
4. Transportation	Rs.3,000
5. Extra nourishment	Rs.2,000
Total	Rs.50,000/-

6. Heard both sides and perused the record.

7. The appellant contends that the Tribunal had failed to decide the quantum of compensation and awarded a meagre compensation of Rs.50,000/- only. It is further

contended that the Tribunal failed to consider the injuries sustained by the appellant in a proper manner. It is further contended that the Tribunal awarded a meagre amount towards pain and suffering, transportation, extra nourishment and loss of income.

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

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

10. According to PW2 i.e., Dr.N.Vijaya Laxman, Civil Assistant Surgeon in Government Hospital, Bhadrachalam, the appellant sustained 3 grievous injuries and 2 simple injuries. He deposed that 1 to 3 were grievous injuries and 4 and 5 are simple in nature and he issued Ex.A3, injury certificate which certifies the injuries sustained by the appellant. Hence this court is of the view that the Tribunal

had not justified in awarding Rs.35,000/- towards five injuries and this Court holds that the appellant is entitled Rs. 25,000/- each for three grievous injuries i.e., Rs.25,000/-x3=75,000/-and Rs.5,000/- each for two simple injuries i.e., Rs.5,000/-x2=10,000/-. This Court holds that the Tribunal had not justified in awarding Rs.5,000/- towards pain and suffering and failed to award compensation towards loss of earnings which includes attendant benefits. Hence, this Court is of the view that it is appropriate to enhance Rs.5,000/- to Rs.20,000/- towards pain and suffering, Rs.3,000/- to Rs.5,000/- towards transportation and Rs.2,000/- to Rs.10,000/- towards extra nourishment.

11. The appellant claimed that he is an agriculturist cum toddy tapper, on considering him as labour and hence as per Ram Chandrappa's case his monthly income is to be taken as Rs.4,500/-.

12. In view of the gravity of the injuries sustained by the petitioner, this court is of the view that the petitioner might

have taken bed rest atleast for a period of three months. Hence the petitioner is entitled to loss of earnings for 3 months i.e. $\text{Rs.}4,500 \times 3 = \text{Rs.}13,500/-$.

13. Thus, this Court is inclined to enhance as follows:

1. Loss of earnings of the petitioner	Rs.13,500/- (Rs.4,500x3)
2. Grievous injuries @ 25000x3	Rs.75,000/-
3. Simple injuries @ 5000x2	Rs.10,000/-
4. Pain and suffering	Rs.20,000/-
5. Extra nourishment	Rs.10,000/-
6. Transportation	Rs. 5,000/-
Total	Rs.1,33,500/-

14. With the above observations Motor Accidents Civil Miscellaneous Appeal is disposed of. The compensation awarded by the learned Tribunal is hereby enhanced from Rs.50,000/- to Rs.1,33,500/-. The enhanced amount will carry interest at 7.5% p.a. from the date of petition till the date of payment against both the respondents jointly and severally. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE PULLA KARTHIK

Date: 25-11-2022
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