

THE HON'BLE SRI JUSTICE M. LAXMAN

CIVIL MISCELLANEOUS APPEAL No.313 OF 2004

JUDGMENT:

1. The present appeal is directed against the common order dated 31.01.2003 passed in O.P.No.650 of 1999 on the file of the Chairman, Motor Accident Claims Tribunal (II Additional District Judge), Nalgonda wherein the Tribunal has granted compensation of Rs.1,02,000/- with interest @ 9% per annum from the date of petition till date of realization.

2. Aggrieved by the said order, the present appeal is at the instance of the claimant. There is no dispute with regard to accident and injuries suffered by the claimant. The only grievance of the claimant/appellant is that the Tribunal without considering the principles of fixation of compensation relating to injuries, has meagerly fixed the amount without considering the impact of injuries.

3. It is also her contention that in the non-pecuniary heads, the compensation is very meagerly fixed in spite of multiple fractures and prolonged treatment and rest during the period of healing of the injuries.

4. Heard arguments of both Learned Counsels.

5. The claimant examined PW.3 doctor who treated the injured in NIMS Hospital and who issued Ex.A18 discharge summary. As per

discharge summary under Ex.A18, there is dislocation of left shoulder, fracture of Tibia on left leg and fracture of right neck of Fibula. The learned counsel for appellant relied upon Ex.A19 certificate showing the loss of pay, contending that almost all the injuries made the injured workless for about 10 months during the period of healing of the injuries, and the injured was earning Rs.5,000/- per month as a Teacher and the incident occurred while they were going to school.

6. In the present case, there are no implants or fixation of rods but conservative treatment was given and the treatment period was 10 days. The fractures were united and there is no disability. When the conservative treatment was given, the healing period is not what the claimant has claimed under Ex.A19. Considering the multiple injuries and treatment given and the treatment period, this Court feels that six months period is sufficient to calculate temporary loss of earnings during the treatment period.

7. The petitioner claimed that he was earning Rs.5,000/- per month but he has not examined the concerned Headmaster of the school who issued Ex.A19. Further, no education qualification stated and proved. However, the fact is that accident occurred when they were going to school. Considering the same, his monthly income can be fixed @

Rs.4,000/- being a teacher. The temporary loss of earnings comes to Rs.4,000 x 6 = Rs.24,000/-.

8. The medical evidence on record shows that the appellant/petitioner spent an amount of Rs.17,000/-. However, the Tribunal has considered and fixed only Rs.15,000/- and no reasons have been assigned for exclusion of Rs.2,000/-, which the claimant incurred for treatment. Therefore, the claimant is entitled for Rs.17,000/- towards medical expenses incurred by him. The amount granted by the Tribunal towards transport and other miscellaneous charges is confirmed i.e. Rs.2,000/-.

9. The injured was treated conservatively for about 10 days in NIMS Hospital and during the said period, he must have incurred some amount towards extra nourishment and must have taken the assistance of an attendant; as such, a sum of Rs.25,000/- is granted under the said heads.

10. The Tribunal has granted an amount of Rs.10,000/- towards pain and suffering, which is very meagre. As the injured suffered multiple fractures, he was bed ridden for nearly six months. Therefore, this Court feels just and reasonable to grant a sum of Rs. 30,000/- under the head pain and suffering which is sufficient considering the nature of injuries.

11. The injured suffered multiple fractures and the said injuries cause impact on the amenities which the injured was enjoying prior to the

accident. Therefore, under the said head a sum of Rs.30,000/- is awarded. In all, the appellant/petitioner is entitled to a sum of Rs.1,28,000/-.

12. In the result, the appeal is allowed enhancing the compensation from Rs.1,02,2000/- to Rs.1,28,000/- (Rs. One lakh and twenty eight thousand only) with proportionate costs and interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit. The Insurance Company is directed to deposit the enhanced amount with interest within a period of two months from the date of receipt of copy of this order, on such deposit, the claimant is entitled to withdraw the entire amount. No order as to costs.

13. As a sequel, pending miscellaneous applications, if any, shall stand closed.

DATE: 01.07.2022
BDR

M. LAXMAN, J