

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.No.3761 of 2014

JUDGMENT:

This appeal is filed under Section 173 of Motor Vehicles Act, aggrieved by the order and decree, dated 19.09.2013 passed in O.P.No.425 of 2009 on the file of the Motor Accident Claims Tribunal-cum-IX Additional District Judge at Kamareddy (for short "the Tribunal").

2. For the sake of convenience, hereinafter, the parties are referred to as per their array before the tribunal.

3. Brief facts of the case are that the claimant filed a petition under Section 166(1)(a) and 163(A) of the Motor Vehicles Act, 1988 claiming compensation of Rs.1,00,000/- for the injuries sustained by him in a motor vehicle accident that occurred on 11.05.2008. It is stated that on 11.05.2008, while the claimant and another were proceeding on a scooter and when they reached in front of Sridevi Hotel, situated at a distance of half kilometer from Kamareddy Police Station, the offending vehicle i.e., Tractor bearing No. AP 36J 0698, owned by the respondent No. 1 and insured with respondent No. 2, being driven by its driver in a rash and negligent manner and at high speed, dashed the scooter. As a result, the claimant and the other person fell down and sustained injuries. The

claimant was treated at various hospital and incurred more than Rs.75,000/-. He was doing agriculture and contract works and earning RS.10,000/- per month and as he sustained permanent disability, he lost his earnings. Therefore, he laid the claim against the respondents seeking compensation under different heads.

4. Considering the claim, counter filed by the respondent No. 2 and also the oral and documentary evidence brought on record, the tribunal allowed the O.P. in part awarding a sum of Rs.50,000/- towards compensation with interest at 7.5% per annum, to be paid by the respondents jointly and severally. Challenging the same, the claimant filed the present appeal seeking enhancement of compensation.

5. Heard both sides and perused the record.

6. The learned Counsel for the appellant submits that though the claimant has suffered grievous injury and underwent surgery for the fracture of right tibia over right leg, the tribunal has awarded Rs.15,000/- towards pain and suffering; Rs.20,000/- towards medical and hospital expenses; Rs.6,000/- towards attendant, transportation and extra nourishment charges. It is further contended that the claimant has asserted that he was

earning Rs.10,000/- per month by doing agriculture and contract works, and though the tribunal having held that the claimant had taken bed rest at least for a period of 3 months, is not justified in awarding a meagre sum of Rs.9,000/- towards loss of income during the treatment period, which needs to be enhanced.

7. Learned Standing Counsel appearing for the respondent No. 2-insurance company has submitted considering the nature of injuries and the treatment period the Tribunal has awarded just compensation, which needs no interference by this Court.

8. With regard to the manner in which the accident took place, a perusal of the impugned judgment discloses that the Tribunal has framed issue No.1 as to whether the accident occurred due to the rash and negligent act on the part of the driver of crime vehicle, to which the tribunal after considering the evidence of P.W.1 coupled with the documentary evidence i.e., Ex.A1, FIR and Ex.A2, charge sheet, has categorically observed that the accident occurred due to the rash and negligent driving of the crime vehicle by its driver and has answered the issue in favour of the claimant and against the respondent. Therefore, I see no reason to interfere with the finding of the Tribunal that the accident occurred due to the rash and negligent driving of the crime vehicle by its driver.

9. Insofar as the quantum of compensation is concerned, Ex.A.3, medical certificate, discloses that the claimant sustained blunt injury on his right leg apart from laceration over right leg. To substantiate Ex.A.3, the doctor, P.W.2 was examined, who deposed that the claimant had sustained (i) *compound fracture of right tibia* and (ii) *laceration about 10 x 4 inches over right leg*. He further deposed that the claimant undergone surgery by incurring Rs.25,000/- and Ex.A.5 is the medical certificate issued by him. Thus, considering Ex.A.3, A.5 and the evidence of P.W.2, this Court is of the view that the amounts awarded by the tribunal are meagre and need enhancement. Hence, this Court enhances the compensation under different heads as under:-

Sl.No.	Heads under which compensation is awarded	Amount awarded by tribunal	Amount now enhanced by this Court
1.	Pain and suffering	Rs.15,000/-	Rs.20,000/-
2.	Grievous & lacerated injury	---	Rs.20,000/-
3.	Medical and hospital expenses	RS.20,000/-	Rs.20,000/-
4.	Attendant; transportation & extra nourishment charges	Rs.6,000/-	Rs.15,000/-

5.	Loss of income during the treatment period	Rs.9,000/-	Rs.25,000/-
6.	Total amount	Rs.50,000/-	Rs.1,00,000/-

10. Accordingly, the M.A.C.M.A. is allowed enhancing the compensation awarded by the tribunal from Rs.50,000/- to Rs.1,00,000/-. The enhanced compensation amount shall carry interest at 7.5% p.a. from the date of the petition till the date of realization, payable by respondents. 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 costs.

Miscellaneous petitions, if any, pending shall stand closed.

SMT. M.G.PRIYADARSINI, J

11.11.2022

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THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

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DATE: 11-11-2022