

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.2593 of 2017

JUDGMENT:

Dissatisfied with the quantum of compensation awarded by the Chairman, Motor Accident Claims Tribunal-cum-Special Sessions Judge for S.Cs./S.Ts. (POA) Act cases-cum-Additional District Judge, Nalgonda in O.P. No.383 of 2014, dated 20.02.2017, the present appeal is filed by the claimant seeking enhancement of compensation granted by the Tribunal.

2. Appellant is the petitioner in the main O.P. According to the petitioner, on 22.06.2014 at about 4-00 p.m. the petitioner was proceeding on his motorcycle bearing No. AP.16.D.9853 from Velidanda village to Kodad town and when he reached the outskirts of Thimmareddigudem village, one Indica car bearing No. AP.24.S.7229 being driven by its driver came in rash and negligent manner with high speed and dashed the petitioner from opposite direction, due to which, he sustained grievous injuries all over the body. Immediately he was shifted to Suresh Ortho and Skin Care Hospital, Kodad town, where he was treated as inpatient from

22.6.2014 to 2.7.2014. Thus, he is claiming compensation of Rs.3,50,000/- under various heads.

3. Respondent No.1 set ex parte; Respondent No.2 filed counter disputing the manner of accident, nature of injuries sustained by the petitioner, age, avocation and income of the claimant and further contended that the claim is exorbitant and sought for dismissal of the claim petition.

4. Based on the above pleadings, the Tribunal framed the following issues:

- 1) Whether the claimant sustained injuries due to rash and negligent driving of driver of Indica car bearing No. AP.24.S.7229?
- 2) Whether the claimant is entitled for compensation, if so, what amount and from whom?
- 3) To what relief?

5. In order to prove the issues, on behalf of the petitioner, PWs.1 to 3 were examined and got marked Exs.A1 to A11. On behalf of the respondent No.2-Insurance Company, no witnesses were examined, however, Ex.B1 got marked.

6. On considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.2,94,829/- towards compensation along with interest at 8% per annum from the date of petition till the date of realization to the appellant-claimant against the respondent Nos.1 and 2 jointly and severally.

7. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for respondent No.2. Perused the material available on record.

8. The learned counsel for the appellant-claimant has submitted that although the claimant, by way of evidence of P.Ws.1 to 3 and Exs.A.1 to A.11, established the fact that the petitioner has sustained permanent disability due to the injuries received by him in the accident, but the Tribunal has awarded very meager amount of Rs.2,94,829/- under various heads.

9. 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

injuries sustained by the petitioner and the treatment taken by him, the learned Tribunal has awarded reasonable compensation and the same needs no interference by this Court.

10. Admittedly, there is no dispute with regard to the manner of accident. However the Tribunal after evaluating the evidence of PW-1 coupled with the documentary evidence available on record, held that the accident occurred due to rash and negligent driving of the driver of Indica car bearing No. AP.24.S.7229. Now the only dispute in the present appeal is with regard to the quantum of compensation.

11. As per the evidence available on record, the evidence of the claimant/PW-1 coupled with the documentary evidence shows that he sustained grievous injuries in the alleged accident and took treatment as inpatient in Suresh Ortho and Skin Care Hospital, Kodad Town from 22-06-2014 to 28-06-2014 and underwent operation to his left leg, inserted rods and he spent Rs.1,10,000/- for which he became disabled permanently. Further according to the evidence of PW-2, Doctor, the petitioner was admitted in his hospital on

22-06-2014 and he found that the petitioner sustained i) fracture of right wrist, ii) fracture of left leg and iii) fracture of left foot and that on 22-6-2014 he was operated to his left leg with ORIF and inter locking nail, tension band wiring and annulated screw fixation was done and he was discharged on 28-6-2014 and the above injuries are grievous in nature. Ex.A7 shows that the petitioner incurred an amount of Rs.98,200/- towards his treatment, nursing, room rent, medicines and hospital charges. Considering Ex.A2 Injury Certificate, the Tribunal awarded an amount of Rs.30,000/- for two grievous injuries, which is very less. However, as per the evidence of PWs.2 and 3, the petitioner has sustained three grievous injuries. Hence considering the injuries sustained by the petitioner, an amount of **Rs.75,000/-** is awarded for three grievous injuries @ Rs.25,000/- for each grievous injury towards pain and suffering.

12. Further PW-2, Member of District Medical Board, Nalgonda stated that he examined the petitioner and found that he is suffering with 35% disability due to the injuries sustained by him. Ex.A9 is the disability certificate issued by

the Medical Board. The evidence of PW.2 clearly established that the petitioner sustained 35% permanent disability. According to the petitioner, he was earning Rs.6,000/- per month on agriculture. However, while calculating the compensation towards the disability, as there was no income proof, the Tribunal has taken the income of petitioner at Rs.3,000/- per month, which is very less. Thus, the income of the petitioner can be taken as Rs.4,500/- per month. As per the records, the claimant was aged about 34 years at the time of accident. Then the appropriate multiplier in light of the judgment of the Apex Court in ***Sarla Verma v. Delhi Transport Corporation***¹ would be “16”. Thus, the future loss of income due to 35% disability comes to $\text{Rs.}4,500 \times 12 \times 16 \times 35/100 = \text{Rs.}3,02,400/-$, which the petitioner/claimant is entitled. Though the petitioner filed Ex.A7 medical bills to a tune of Rs.98,200/-, the Tribunal awarded an amount of Rs.50,000/-, which is very less. Thus considering the evidence of PW-3 coupled with Ex.A7, an amount of **Rs.98,200/-** is awarded towards medical bills and treatment charges. The petitioner is also entitled for **Rs.15,000/-**

¹ 2009 ACJ 1298 (SC)

towards extra nourishment and transport charges. In total, the claimant is entitled to **Rs.4,90,600/-**.

13. In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.2,94,829/- to **Rs.4,90,600/-**. The enhanced amount shall carry interest at 7.5% p.a. from the date of Order of the Tribunal till the date of realization against the respondent Nos.1 and 2. The amount shall be deposited within a period of one month from the date of receipt of a copy of this order. The claimant shall pay the deficit court fee and on such payment of court fee only, he is entitled to withdraw the compensation amount without furnishing any security. No costs.

Miscellaneous petitions, if any pending, shall stand closed.

M.G.PRIYADARSINI,J

11.11.2022
pgp