

THE HON'BLE JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 736 of 2014

JUDGMENT:

This appeal is filed by the claimant, injured, aggrieved by the judgment and decree, dated 19.04.2010 made in M.V.O.P.No. 431 of 2010 on the file of the II Additional District & Sessions Judge (Fast Track Court) at Sangareddy (for short, the Tribunal).

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

The claimant filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.2.50 lakhs towards compensation for the injuries sustained by him in a motor vehicle accident that occurred on 14.08.2010. According to the claimant, on 14.08.2010, while he was walking towards his mechanic shed and reached near Nagarjuna Homes, Nizampet Road, the offending vehicle i.e., Car bearing No. AP 13K 0045, owned by respondent No. 1 and insured with respondent No. 2, being driven by its driver in rash and negligent manner, came behind him and dashed him from back side. As a result, the claimant fell down and received multiple injuries, including fracture to his left leg. He was treated at Prime Hospital, Kukatpally, where he underwent operation and nails were fixed in his left leg. According to him, due to the

accident, he was unable to attend his regular works as he sustained permanent disability and therefore, he filed the claim petition against the respondents seeking compensation under different heads.

Before the Tribunal, respondent Nos. 1 & 2, contested the claim denying the averments of the claim petition and contended that the amount claimed is excessive and prayed for dismissal of the claim petition.

Considering the claim, counter and the evidence, both oral and documentary brought on record, the tribunal has allowed the O.P. in part awarding a sum of Rs. 1,12,000/- towards compensation. Seeking further enhancement of compensation, the claimant approached this Court with the present appeal.

Heard both sides and perused the material available on record.

The finding of the Tribunal with regard to the manner in which the accident took place has become final as the same is not challenged either by the owner or insurer of the vehicle.

The short question that arises for consideration in this appeal is “*whether the compensation awarded by the Tribunal is just and equitable*”?

The only contention advanced by the learned counsel for the appellant-claimant is that the claimant has sustained multiple fractures to his left leg apart from other grievous injuries, that he had underwent operation and nails were fixed even as per the evidence of P.W.3, the doctor, who gave treatment has categorically stated that the claimant needs second surgery for implant removal which would cost Rs.50,000/-, but the tribunal did not award any amounts for the future surgery. It is further contended that even the amounts granted under the heads of pain & suffering; loss of earnings; transportation, attendant charges and extra nourishment are meagre and need enhancement.

On the other hand, the learned Standing Counsel for the Insurance Company has contended that considering the nature of injuries and length of treatment, the tribunal has adequately awarded the compensation and therefore, the learned Standing Counsel sought for dismissal of the appeal.

As seen from the record, P.W.3, Orthopaedic Surgeon of Prime Hospital, who treated the claimant had deposed that the claimant had undergone surgery on 17.08.2010 for closure of both bone fractures of left leg. He has also deposed that the claimant needs to undergo second surgery for implant removal. The record further discloses that although there were two fractures on left leg, the tribunal has awarded only Rs.20,000/- considering as one fracture. Thus, considering the nature of injuries sustained by the claimant and considering the fact that implants that were fixed in the left leg of the claimant needs to be removed, as deposed by P.W.3, this Court of the view that the tribunal was not justified in not awarding any amount under this head. So also, as the claimant had underwent major surgery and he had taken follow up treatment, this Court is of the view that the amounts of Rs.9,000/- awarded by the tribunal under the heads of pain and suffering; transportation, attendant charges and extra nourishment are meagre. Hence, considering the two fractures on left leg, the amount of Rs.20,000/- awarded by the tribunal under the head of fracture, is hereby enhanced to Rs.40,000/-. The amount of Rs.64,465/- awarded by the tribunal under the head of medical bills and treatment is not interfered as the same was

rightly awarded considering Ex.A.10 & A.13, medical bills. However, the amount of Rs.6,000/- awarded under the heads of extra nourishment, care and transportation charges are hereby enhanced to Rs.20,000/-. So also, under the head of pain and suffering, the amount of Rs.3,000/- awarded by the tribunal is enhanced to Rs.25,000/- considering the fact that the claimant had suffered two fractures to left leg. The amount of Rs.18,000/- awarded by the tribunal under the head of loss of earnings during the treatment period is not interfered with. Further, in view of the categorical evidence of P.W.3 that the claimant has to undergo surgery for removal of implants, this Court grants an amount of Rs.25,000/- for removal of implant. Thus, in all, the claimant is granted the compensation of Rs.1,92,465/- as against Rs.1,12,000/- awarded by the tribunal.

In the result, the MACMA is allowed in part enhancing the compensation from Rs. 1,12,000/- to Rs. 1,92,4605/-. The enhanced compensation shall carry interest at 7.5% per annum from the date of order of the tribunal till the date of realization. The respondents are directed to deposit the amount within two months from the date of receipt of a copy of this order. On such

deposit, the claimant is entitled to withdraw the said amount. No order as to costs.

Pending Miscellaneous petitions shall stand closed.

JUSTICE M.G. PRIYADARSINI

01.12.2022
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