

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No. 741 of 2015

JUDGMENT:

Being dissatisfied with the order and decree passed by the Chairman, Motor Accident Claims Tribunal-cum-X Additional District Judge, (Fast Track Court), Ranga Reddy District in O.P.No.1172 of 2009 dated 05.11.2014, the appellant/petitioner has filed the present appeal.

2. For the sake of convenience, the parties have been referred to as arrayed before the Tribunal.

3. Brief facts of the petitioner's case are that on 14.11.2009 when he was proceeding on motorcycle bearing No. AP 5 AR 6129 along with his wife and at about 9-20 p.m. they reached near Sudershan Sweet Shop at Street No.1 and when he was turning towards left side, a milk van bearing No. AP 10 T 3238 came from right side without observing the motorcycle and the fruit vendor's push cart, hit his vehicle, as a result, he fell down and sustained grievous injuries and his wife escaped with minor injuries. Immediately he was admitted in Sri Laxmi Nursing Home and from there he was shifted to Niveditha Orthopedic Hospital, where he was treated as in-

patient for four days and that he lost his salary for two months besides incurring medical expenses. Thus, he claimed compensation of Rs.1,20,000/- under various heads.

4. Respondent No.1 remained ex parte; Respondent No.2 filed counter disputing the manner of accident and the nature of injuries sustained by the petitioner. It is further contended that the compensation claimed by the petitioner is excessive.

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

1. Whether the accident was occurred due to the rash and negligent driving of Driver of the Milk Van bearing no. AP 10 T 3238?
Or
Whether the accident was occurred due to rash and negligent driving of the motor bike bearing No. AP 5 AR 6129?
Or
Whether the accident was occurred due to rash and negligent driving of the driver of the milk van bearing No. AP 10 T 3238 and as well as driver of the motor bike bearing No. AP 5 AR 6129?
2. Whether the petitioner is entitled to compensation, if so, at what quantum and from which of the respondents?
3. To what relief?

6. In order to prove the issues, the petitioner was examined as PW.1 and Exs.A1 to A11 were marked on behalf of the petitioner. On behalf of respondent No.2, no oral or documentary evidence was adduced.

7. Considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.1,62,000/- towards compensation to the appellant-claimant against the respondent Nos.1 and 2 jointly and severally along with costs and interest @ 9% per annum from the date of petition till the date of realization.

8. Heard the learned Counsel for the appellant/claimant and the learned Standing Counsel for the respondent No.2-Insurance Company. Perused the material available on record.

9. The learned Counsel appearing on behalf of appellant/claimant submitted that although the claimant established the fact that the petitioner sustained disability due to the injuries caused in a motor accident, the Tribunal awarded meager amount.

10. The learned Standing Counsel appearing on behalf of respondent No.2-Insurance Company submitted that the Tribunal after considering the oral and documentary evidence available on record, has awarded adequate compensation and the same needs no interference by this Court. Therefore, the learned counsel sought for dismissal of the appeal.

11. With regard to the manner of accident, there is no dispute. However, after evaluating the evidence of PW-1 coupled with the documentary evidence produced by him, the Tribunal rightly held that the petitioner received injuries in a motor vehicle accident which occurred due to the rash and negligent driving of the milk van bearing no. AP 10 T 3238.

12. With regard to the quantum of compensation is concerned, according to the petitioner, he sustained fracture to the lateral malleolus of the right ankle and Ex.A5 original discharge card issued by Sri Laxmi Nursing Home shows that he was admitted in Laxmi Nursing Home on 14.11.2009 and was discharged two days thereafter. Ex.A8 is a receipt issued by Niveditha Orthopedic Hospital for Rs.56,400/- towards physiotherapy for three months @ Rs.600/- per day.

Therefore, considering the fracture injury sustained by the petitioner, an amount of **Rs.50,000/-** is awarded by the Tribunal towards injury and pain and suffering, which is not disturbed. Further considering Ex.A8 medical bills issued by Niveditha Orthopedic and Fracture Clinic, an amount of **Rs.53,400/-** is awarded towards medical bills and an amount of **Rs.18,000/-** is awarded towards physiotherapy charges. As per Ex.A7, the petitioner was in bed rest for four and half months. Ex.A6 Appointment letter issued by Medapati Technologies shows the gross salary of the petitioner as Rs.12,000/- per month. Therefore, an amount of **Rs.54,000/-** is awarded towards loss of earnings. The Tribunal awarded an amount of Rs.15,000/- towards transportation and attendant charges, which is very less. Therefore, an amount of **Rs.20,000/-** is awarded towards extra nourishment, transportation and attendant charges. Thus in all the petitioner has been awarded an amount of **Rs.1,95,400/-** under all counts.

13. With regard to the liability, since the accident occurred due to the rash and negligent driving of the driver of the offending vehicle, which was insured by respondent No.2, the

Tribunal rightly held that the respondent Nos.1 and 2 are jointly and severally liable to pay compensation awarded to the petitioner.

14. In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.1,62,000/- to **Rs.1,95,400/-**. The enhanced amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization, payable by respondent Nos. 1 and 2 jointly and severally. 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 deposit of court fee only, the claimant is at liberty to withdraw the same without furnishing any security. No costs.

Miscellaneous petitions, if any pending, shall stand closed.

M.G.PRIYADARSINI,J

01.12.2022
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