

THE HON'BLE JUSTICE G. SRI DEVI

M.A.C.M.A. No. 2295 of 2015

JUDGMENT:

Dissatisfied with the quantum of compensation awarded by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District & Sessions Judge, Ranga Reddy District at L.B. Nagar, Hyderabad in M.V.O.P. No. 69 of 1999, dated 05.10.2009, the present appeal is filed by the claimant.

Vide aforesaid order, the Tribunal has awarded an amount of Rs.5,00,000/- towards compensation to the appellant-claimant against the respondents herein who are, rider, owner and insurer of the offending scooter bearing No. AP 23B 5147, jointly and severally together with interest at 7.5% per annum for the injuries suffered by him in the road accident that occurred on 08.01.1999.

Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the respondent No. 3- Insurance Company. Perused the material available on record.

The learned counsel for the appellant-claimant has submitted that in the accident, the claimant received injuries to both legs and right leg was amputated above the knee level. The doctor, P.W.3, categorically deposed that the claimant has suffered 60% permanent disability and Ex.A.3, issued by the competent Medical Board, also reflects that the due to the amputation of right leg, he sustained 60% permanent disability. The claimant had to take treatment in the hospital as inpatient for a

considerable period; that he was 40 years old at the time of the accident and has lost his future prospects; and that he has to lead his remaining life with the assistance of an attendant. Considering these aspects, although the claimant has sought for only Rs.5.00 lakhs towards compensation, the tribunal having arrived at the compensation of Rs.5,43,360/- ought not to have restricted the compensation to Rs.5.00 lakhs.

The learned Standing Counsel appearing on behalf of respondent No. 3 sought to sustain the impugned award of the Tribunal contending that considering the nature of the injuries sustained and the expenditure incurred by the claimant towards treatment & medicines, the learned Tribunal has awarded just and reasonable compensation, as claimed by the claimant and the same needs no interference by this Court.

There is no dispute with regard to the manner of the accident and the rash and negligent driving of the offending scooter by its rider in causing the accident. As regards the quantum of compensation, the claimant was 40 years at the time of accident and due to the injuries sustained in the accident, he has lost his right leg. As a result, he has suffered 60% permanent disability which has been duly proved by the evidence of P.W.3 and Ex.A.13. Considering all these circumstances, the tribunal has determined the compensation at Rs.5,43,360/- under different heads, however, restricted the claim to Rs.5.00 lakhs as the claim was only for Rs.5.00 lakhs. In this regard, it is relevant to refer the judgment of the Apex Court reported in ***Laxman @ Laxman Mourya Vs. Divisional***

Manager, Oriental Insurance Company Limited and another¹, wherein, the Apex Court while referring to its earlier decision in **Nagappa Vs. Gurudayal Singh²**, has held as under:

“It is true that in the petition filed by him under Section 166 of the Act, the appellant had claimed compensation of Rs.5,00,000/- only, but as held in Nagappa vs. Gurudayal Singh (2003) 2 SCC 274, in the absence of any bar in the Act, the Tribunal and for that reason any competent Court is entitled to award higher compensation to the victim of an accident.”

In view of the Judgments of the Apex Court referred to above, the claimant is entitled to get more amount than what has been claimed. Further, the Motor Vehicles Act being a beneficial piece of legislation, where the interest of the claimant is a paramount consideration the Courts should always endeavour to extend the benefit to the claimant to a just and reasonable extent. Hence, this Court is inclined to award the compensation as was determined by the tribunal.

In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.5,00,000/- to Rs.5,43,360/-. The said compensation amount shall carry interest at 7.5% per annum from the date of filing of the O.P. till the date of realization, payable by respondent Nos. 1 and 2 jointly and severally. The amount shall

¹ (2011) 10 SCC 756

² 2003 ACJ 12 (SC)

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. However, the claimant shall pay the deficit court fee on the enhanced compensation amount, as the original claim was for Rs.5.00 lakhs only. There shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

01.07.2022
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