

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.1942 of 2014

JUDGMENT:

Not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal-cum-II Additional District Judge (Fast Track Court), Nizamabad, in O.P. No.1325 of 2004, dated 27.10.2009, the present appeal is filed by the claimant seeking enhancement of compensation.

2. According to the petitioner, 21.07.2004 while the petitioner was travelling in Jeep bearing No. AP.25.T.5773 from Ravutla village to Rampoor village of Dichpally Mandal and when the jeep reached the limits of Vengalpad village on PWD road leading from Indalwai to Dharpally, at a distance of 13 k.ms., towards west from Dharpall P.S. at about 9-30 a.m., a Tata Sumo bearing No. AP.25.D.9369 being driven by its driver came in rash and negligent manner with high speed and dashed their jeep. Due to which, the petitioner sustained multiple fractures to his both bones of right knee, fracture and crush injuries to right shoulder, fracture of ribs, multiple fracture of right hand, multiple grievous head injuries and other multiple injuries all

over the body. Immediately he was taken to Government Headquarters Hospital, Nizamabad, where he was given first aid and referred to Hyderabad for expert treatment and he underwent three major operations and steel rods were implanted into his right knee, right shoulder and right hand and that he spent more than Rs.1,00,000/- towards medical expenses and extra nourishment. According to the petitioner, he was aged 28 years, doing vegetable business and used to earn more than Rs.12,000/- per month. Due to the injuries sustained by him, he became permanently disabled and lost his earning capacity. Thus, he is claiming compensation of Rs.2,00,000/- under various heads.

3. Respondent No.1 remained ex parte; Respondent No.2 filed counter disputing the manner of accident, age, avocation and income of the injured. It is further contended that the compensation claimed by the petitioner is excessive and therefore, prays to dismiss the petition.

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

1. *Whether the accident has taken place due to rash and negligent driving of auto bearing No. AP.25.D.9369 by its driver?*
2. *Whether the petitioner is entitled for compensation, if so, to what amount and against whom?*
3. *To what relief?*

5. In order to prove the issues, PWs.1 and 2 were examined and Exs.A1 to A4 got marked on behalf of the petitioner. On behalf of respondents, no oral evidence was adduced.

6. Considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.80,000/- towards compensation to the appellant-claimant along with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of realization.

7. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the second respondent-Insurance Company. 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 and 2 and

Exs.A1 to A4, established the fact that the accident occurred due to the rash and negligent driving of the driver of the Tata Sumo, and the petitioner has sustained grievous injuries in the accident, the Tribunal awarded very meager amount under various heads.

9. The learned Standing Counsel appearing on behalf of second respondent-Insurance Company sought to sustain the impugned award of the Tribunal contending that considering the manner of accident and the nature of injuries sustained by the petitioner, the learned Tribunal has awarded reasonable compensation and the same needs no interference by this Court.

10. With regard to the manner of accident, after evaluating the evidence of PW-1 coupled with documentary evidence available on record, the Tribunal rightly held that accident occurred due to the rash and negligent driving of the driver of Tata Sumo.

11. Coming to the quantum of compensation, the petitioner deposed that he sustained multiple fracture to his both bones of right knee, fracture and crush injuries to right shoulder, fracture of ribs, multiple fracture of right hand, multiple grievous head injuries and other

multiple injuries all over the body and immediately after the accident, he was taken to Government Headquarters Hospital, Nizamabad, where he was given first aid and referred to Hyderabad for expert treatment and he underwent three major operations and steel rods were implanted into his right knee, right shoulder and right hand and that he spent more than Rs.1,00,000/- towards medical expenses and extra nourishment. In support of his contention, Dr.V.Akilesh, Civil Assistant Surgeon, District Hospital, Nizamabad, who treated him was examined as PW-2 and he deposed that the petitioner has sustained three grievous injuries and two simple injuries, for which the tribunal awarded an amount of Rs.60,000/- for three grievous injuries @ Rs.20,000/- for each grievous injury and Rs.5,000/- for two simple injuries @ Rs.2,500/- for each simple injury, which appears to be very less. Thus, considering the nature of injuries sustained by the petitioner, an amount of **Rs.75,000/-** is awarded for three grievous injuries @ Rs.25,000/- for each grievous injury and **Rs.10,000/-** is awarded for two simple injuries @ Rs.5,000/- for each simple injury. Further the tribunal also awarded Rs.2,500/- towards medical expenses, Rs.2,500/- towards extra nourishment, Rs.2,500/- towards transport charges, Rs.2,500/- towards attendant charges and Rs.5,000/-

towards pain and suffering, which are very less. Therefore, an amount of **Rs.15,000/-** is awarded towards extra nourishment, transport charges and attendant charges, **Rs.5,000/-** towards medical expenses and **Rs.20,000/-** towards pain and sufferance. Further the petitioner might not have attended to his work for two months because of injuries sustained by him. Therefore, an amount of **Rs.10,000/-** is awarded towards loss of earnings. Thus in all the petitioner is entitled for an amount of **Rs.1,35,000/-** under all counts.

12. With regard to the liability, as stated above, the accident occurred due to the rash and negligent driving of the driver of the Tata Sumo and the policy was in force as on the date of accident. Therefore, respondent Nos.1 and 2 being the owner and insurer of the Tata Sumo are jointly and severally liable to pay compensation to the petitioner.

13. In the result, the M.A.C.M.A. is allowed in part by enhancing the compensation amount awarded by the Tribunal from Rs.80,000/- to **Rs.1,35,000/-**. The enhanced amount shall carry interest at 6% 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. 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.

M.G.PRIYADARSINI,J

09.01.2023
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