

HONOURABLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No.698 of 2018

JUDGMENT:

Being not satisfied with the quantum of compensation awarded in the order and decree, dated 28.08.2017 made in O.P.No.151 of 2010 on the file of the Chairman, Motor Accident Claims Tribunal-cum-IV Additional District Judge (II Fast Track Court), Nalgonda (for short “the Tribunal”), the appellant/claimant preferred the present appeal seeking enhancement of the compensation.

2. The facts, in issue, are as under:

The appellant filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.12,00,000/- for the injuries sustained by him in a road accident that occurred on 18.01.2008. According to the appellant, on 18.01.2008, the appellant and some others boarded the Tata Sumo bearing No.AP 24 B 9049 in order to go to Srirangam, Trichy, Srivalliputhur, Madurai and Rameshwaram of Thaminadu and when they reached Thenepallypattu Village at about 3:00 a.m., the driver of the Tata Sumo drove it in a rash and negligent manner and dashed to a Tamarind tree which is situated right side of the road, as a result of which, the appellant sustained fracture of segmental femur, closed fracture of fibula, closed

fracture of tibia, closed fracture of both bones of right fore arm. Immediately after the accident, the appellant was shifted to C.M.C., Vellore and he has taken treatment in the said hospital for a considerable period and the doctors conducted surgeries to the fracture injuries. It is stated that prior to the accident, the appellant was hale and healthy and was earning Rs.5000/- per month working as mason. It is further stated that due to injuries he was completely bed ridden, lost his income and also lost amenities and social status as he suffered permanent disability. Therefore, he laid the claim against the respondents, who are the owner and insurer of the offending vehicle, Tata Sumo, seeking compensation under various heads.

3. Considering the claim and the counter filed by respondent No.2, and on evaluation of the evidence, both oral and documentary, the Tribunal has partly allowed the O.P. awarding compensation of Rs.5,35,898/- with interest at 8% per annum. Challenging the said quantum of compensation as meagre, the present appeal is filed by the appellant/claimant.

4. Heard learned counsel for the appellant and learned Standing Counsel for respondent No.2.

5. Learned counsel for the appellant mainly submits that the quantum of compensation awarded by the Tribunal is on lower side and seeks enhancement of the same duly taking into

consideration the permanent disability suffered by him at 46%. It is further contended that the appellant is aged about 35 years and due to the disability, he lost his income and the Tribunal has fixed the income of the injured at Rs.100/- per day though the appellant is a skilled labour i.e., mason and therefore, prayed to award reasonable amount for the loss sustained by him.

6. Per contra, the learned Standing Counsel for the Insurance Company submits that the quantum of compensation awarded by the Tribunal is based on evidence available on record and the same needs no interference.

7. 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.

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

9. In order to establish his case, the appellant examined himself as PW.1 and the Doctors, who treated him, as P.Ws.2 and 3. In support of the injuries as well as the disability sustained by him, the appellant got marked Ex.A6, disability certificate, issued by District Medical Board, Nalgonda. P.W.3, the Orthopaedic Surgeon, deposed in his evidence that the

appellant has sustained six grievous injuries. As the appellant had sustained six grievous injuries as deposed by P.W.3, he is entitled to Rs.1,20,000/- (Rs.20,000/- for each grievous injury).

10. Insofar as the income of the appellant is concerned, the contents of the charge sheet disclose that the appellant is a mason by profession. Therefore, considering the age and avocation of the appellant, this Court is inclined to fix the income of the appellant at Rs.4,500/- per month. As per Ex.A6, disability certificate, issued by the District Medical Board, Nalgonda, the appellant had sustained permanent disability at 46%. Therefore, the appellant is entitled to Rs.3,97,440/- ($\text{Rs.4,500/-} \times 12 \times 16 \times 46/100$) towards loss on account of permanent disability. Further, the other amounts awarded by the Tribunal under the heads of medical expenses, extra nourishment, transport charges need no interference as they are just and reasonable. Thus, in all the appellant is entitled to a sum of Rs.7,28,378/- as compensation.

11. In the result, the appeal is allowed by enhancing the compensation from Rs.5,35,898/- to Rs.7,28,378/- . The enhanced amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization. The 2nd respondent is directed to deposit the said amount within two months from the date of receipt of a copy of this judgment. On such deposit, the

appellant is permitted to withdraw the entire compensation amount. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.G. PRIYADARSINI

10.01.2023
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DATE: 10-01-2023