

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

M.A.C.M.A.No.4279 of 2008

JUDGMENT:

This appeal is preferred by the claimant aggrieved by the award and decree dated 21-12-2005 in O.P.No.560 of 2002 on the file of the Motor Accident Claims Tribunal-cum-III Additional District Judge (Fast Track Court), Asifabad.

2. Heard learned counsel for the appellant-claimant Mr. S. Surender Reddy and learned Standing Counsel for respondent No.2- Insurance Company Smt V. Durga and perused the record.

3. The brief facts are that on 21-11-2001, while the claimant along with his family members was travelling in a jeep bearing No.AP-1/A-9545 from CCC corner to Chinnur and when it reached near Mallanna Swamy Temple at 8-00 AM, the driver of the jeep drove it in a rash and negligent manner at high speed and it turned turtle due to burst of one of the tires, as a result the claimant has sustained simple and grievous injuries. Immediately after the accident, the claimant was shifted to the hospital for treatment. Hence, he is claiming compensation of Rs.1,00,000/- for the injuries sustained by him in the accident.

4. The respondent-Insurance Company has filed counter denying the manner of accident, rash and negligent driving of the driver of the crime vehicle and the nature of injuries sustained by the claimant and the amount that was spent by him for his treatment. It is stated that the

accident occurred due to overload of passengers in the jeep and as such the insurance company is not liable to pay the compensation.

5. The Tribunal on analyzing the oral and documentary evidence has granted compensation of Rs.20,000/- with interest at 7.5% per annum from the date of petition till the date of deposit.

6. Learned counsel for the appellant-claimant submits that the claimant was working as a Tailor and earning an amount of Rs.3,000/- per month at the time of accident, but the Tribunal has taken his monthly income as Rs.2,500/- and granted only an amount of Rs.7,500/- for loss of earnings for a period of three months as he has not worked for the said period. He submits that though the Tribunal having observed that the claimant has sustained two grievous and three simple injuries, the proportionate amount is not awarded for those injuries. He further submits that the Tribunal has granted meager amount of Rs.500/-towards transportation, Rs.4,000/-towards medical bills and extra nourishment and Rs.8,000/- for pain and suffering. He also submits that though the claimant has suffered disability, that aspect was not considered by the Tribunal and in total has granted only a sum of Rs.20,000/- with interest at 7.5% per annum.

7. Learned Standing Counsel for the respondent-Insurance Company submits that the claimant has sustained two grievous and three simple injuries and accordingly the compensation was awarded. She submits that though the claimant has stated that he was earning a sum of Rs.3,000/- per month by doing tailoring work, no evidence was

adduced by him. She further submits that the claimant has produced Ex.A7-medical bills for a sum of Rs.2,516/- and the Tribunal has awarded compensation of Rs.4,000/- towards medical bills and extra nourishment. She further submits that the claimant has not produced any disability certificate and no evidence is let in and as such the Tribunal has not considered the same and the compensation awarded by the Tribunal is just and reasonable.

8. In this factual backdrop, the point that arises for determination is whether the compensation awarded by the Tribunal to the claimant is just and proper.

9. This Court has perused the order passed by the Tribunal. The Tribunal has observed that the claimant has sustained two grievous and three simple injuries in the accident. For the two grievous injuries an amount of Rs.80,000/- and for the three simple injuries an amount of Rs.15,000/- is granted. Further, as per the law laid down by the Apex Court in **Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited**¹, even in case of a daily labourer, the Apex Court has taken monthly income at Rs.4,500/-. In this regard, as the claimant has pleaded that he was earning a sum of Rs.3,000/-per month, it can be safely taken as his monthly income at Rs.3,000/- and an amount of Rs.9,000/- is granted as compensation towards loss of earnings for three months. For medical bills an amount of Rs.5,000/- would be a reasonable amount and the same is granted. For attendant benefits, no amount was granted by the Tribunal and under the said

¹ (2011) 13 SCC 236

head, a sum of Rs.10,000/- is granted. For pain and suffering, the Tribunal has only granted an amount of Rs.8,000/-, but this Court is inclined to grant a sum of Rs.15,000/- and for extra nourishment an amount of Rs.10,000/- and for transportation an amount of Rs.5,000/- is awarded.

10. In the light of the above discussion, the appellant-claimant is entitled for compensation under the following heads;

1. Loss of earnings	--	Rs. 9,000/-
2. Medical bills	--	Rs. 5,000/-
3. Attendant Benefits	--	Rs.10,000/-
4. Pain and suffering	--	Rs.15,000/-
5. Extra nourishment	--	Rs.10,000/-
6. Transportation	--	Rs. 5,000/-
7. Fracture injuries	—	Rs.80,000/-
8. Simple injuries	--	Rs.15,000/-

Total:		Rs.1,49,000/-

11. In the result, the Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.20,000/- to Rs.1,49,000/-.

(a) The enhanced amount shall carry interest at 7.5% per annum from the date of petition till the date of realization.

(b) The claimant shall pay the deficit Court fee on the enhanced amount.

(c) The respondent-insurance company shall deposit the compensation within a period of 8 weeks from the date of receipt of a copy of this judgment. On such deposit and on payment of deficit Court fee, the claimant is permitted to withdraw the compensation without furnishing any security.

12. Miscellaneous petitions, if any pending in this appeal shall stand closed.

1st February, 2023.

sj

SMT LALITHA KANNEGANTI, J