

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.No.55 of 2017

JUDGMENT:

Dissatisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal-cum-XXV Additional Chief Judge, City Civil Court, Hyderabad, in M.V.O.P.No.574 of 2013, dated 12.09.2016, the present appeal is filed by the claimant seeking enhancement of compensation granted by the Tribunal.

2. Appellant is the petitioner in the main M.V.O.P. According to the petitioner, on 05.02.2012, while the petitioner was proceeding on motor bike from Tankbund to Ranigun and when he reached opposite to Budha Bhavan on M.G. road, one Car bearing No.AP 29 AE 5250 came in rash and negligent and dashed the petitioner's motor bike from its behind, due to which the petitioner fell down and sustained fracture of both bone of right leg, fracture of right knee and injuries all over the body. Immediately, he was taken to Sunshine Hospital, Secunderabad, and from there he was shifted to ESIC Model Hospital, Nacharam, Hyderabad, for treatment where he was treated as inpatient and underwent surgery. According to the petitioner, he was working as an office boy in Godrej & Boyce Mfg.Co.Ltd and earning Rs.6,200/- per month. Due to the injuries sustained by him, he became permanently disabled and lost his income. Thus, the petitioner is claiming compensation of Rs.5,00,000/- against the respondents 1 and 2 jointly and severally.

3. While respondent Nos.1 remained ex parte, respondent No.2 filed counter disputing the manner of accident, nature of injuries sustained by the petitioner, age, avocation and income of the claimant and further contended that the claim is exorbitant and sought for dismissal of the claim petition.

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

1. *Whether the accident took place due to rash and negligent driving of the vehicle bearing No.AO 29 AE 5250 causing injuries to the petitioner?*
2. *Whether the petitioner is entitled for any compensation, if so, at what quantum and from whom?*
3. *To what relief?*

5. In order to prove the issues, PWs.1 & 2 were examined and Exs.A1 to A11 got marked on behalf of the petitioner. On behalf of respondent Nos.1 and 2, no witnesses were examined but Exs.B1 was marked.

6. On considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.92,000/- towards compensation to the claimant along with costs and interest @ 8% per annum from the date of filing the petition till realization against the respondents jointly and severally.

7. 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.

8. The learned counsel for the appellant-claimant has submitted that although the claimant, by way of evidence of P.Ws.1 & 2 and Exs.A.1 to A.11, established the fact that he has sustained permanent disability due to the injuries received by him in the accident, the Tribunal has awarded very meager amount under various heads.

9. On the other hand, the learned Standing Counsel appearing on behalf of 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. As regards the manner of accident, the Tribunal after evaluating the evidence of PW.1, coupled with the documentary evidence available on record i.e., Exs.A.1 & A.2, held that the accident occurred due to rash and negligent driving of the driver of Car bearing No.AP 29 AE 5250. Therefore, this Court is not inclined to interfere with the said findings of the Tribunal. Now the only dispute in the present appeal is with regard to the quantum of compensation.

11. As per the medical evidence available on record, the claimant sustained grievous injuries in the alleged accident and immediately he

was taken to Sunshine Hospital for first aid and shifted to ESIC Model Hospital, Nacharam, where he was treated as inpatient. He spent Rs.1,608/- towards medical expenses as seen from Ex.A11, medical bills. The evidence of PW-2, who is the Medical Superintendent in ESIC Model Hospital, discloses that the petitioner was admitted on 05.02.2012 in their hospital as inpatient, underwent surgery on 07.02.2012 for fracture i.e., Lateral Conoye right tibia and discharged on 22.02.2012. Further, the petitioner filed Ex.A8 Disability Certificate, which shows that PW-1 is suffering from 51% disability on account of the injuries sustained by him and the same was not considered by the Tribunal for the reason that the petitioner has been receiving an amount of Rs.1,500/- per month from the Telangana State Government. This Court is of the opinion that the Tribunal has rightly discarded Ex.A8 Disability Certificate as the petitioner receiving the amount monthly.

12. Coming to the quantum of compensation, according to the petitioner, he was aged about 30 years and used to earn Rs.6,200/- per month by working as Office Boy in Godrej & Boyce Mfg.Co.Ltd., Secunderabad. The Petitioner filed Ex.A10 pay slip in order to prove his income. Considering the avocation of the petitioner and the accident is of the year 2012, this Court is inclined to award Rs.50,000/- towards loss of earnings; Rs.30,000 towards grievous injuries; Rs.1600/- towards medical bills; Rs.20,000/- towards attendant, transport charges and extra nourishment and Rs.25,000/-

towards pain and sufferings. Thus, in all, the claimant is entitled to Rs.1,26,600/- towards just compensation. As regards the rate of interest is concerned, the claimants are entitled to interest @ 7.5% per annum on the compensation awarded by the Tribunal from the date of petition till realization, as per the decision of the Apex Court in **Rajesh and others v. Rajbir Singh and others**¹.

13. In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from **Rs.92,000/-** to **Rs.1,26,600/-**. The enhanced amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization against the 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. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.G. PRIYADARSINI

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¹ 2013 ACJ 1403 = 2013 (4) ALT 35

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