

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

M.A.C.M.A.No.562 of 2020

JUDGMENT:

Dissatisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal-cum-IV Additional District and Sessions Judge (II Fast Track Court), Nalgonda, in M.V.O.P.No.817 of 2014, dated 02.03.2020, 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 16.06.2014, while the petitioner, along with his friend, was proceeding on Bajaj Discover motorcycle bearing No.AP BW 5221 from Maruthi Nagar Photo lab to Dilsukhnagar and when they reached near Saroornagar police station in front of Shivalayam temple at about 1.00 pm, one DCM bearing No.AP 28 TB 6703 came in rash and negligent and dashed the petitioner's motor cycle from its behind, due to which the petitioner sustained injuries on both legs, on head and all over his body. Immediately, he was taken to Good Life Hospital, Hyderabad, for treatment where he was treated as inpatient. He spent Rs.3,50,000/- towards medical expenses. According to the petitioner, he was doing photoshopie in colour lab and earning Rs.15,000/- 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.14,00,000/- 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 petitioner sustained injuries due to rash and negligent driving of driver of DCM van bearing No.AP 28 TB 6703?*
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 to 3 were examined and Exs.A1 to A10 got marked on behalf of the petitioner. On behalf of respondent No.1 and 2, no witnesses were examined but Exs.B1 and B2 were marked.

6. On considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.7,51,743/- towards compensation to the claimant along with costs and interest

@ 6% 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 to 3 and Exs.A.1 to A.10, 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.4, held that the accident occurred due to rash and negligent driving of the driver of DCM bearing No.AP 28 TB 6703. 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 Good Life Hospital, where he was treated as inpatient. He spent Rs.3,34,443/- towards medical expenses as seen from Ex.A.7, medical bills. The evidence of PW-2, who is the plastic surgeon in Good Life Hospitals, Chaitanyapuri, Dilsukhnagar, Hyderabad, discloses that on 16.06.2014 PW-1 was admitted as inpatient in their hospital and underwent surgeries on 18.06.2014, 21.06.2014 respectively and was discharged on 31.07.2014. Further, according to the evidence of PW-3, who is the member of District Medical Board, Nalgonda, PW-1 has appeared before the Medical Board on 28.02.2019 for disability assessment and after examining him he had issued permanent disability certificate as in Ex.A5 Disability Certificate, which shows that PW-1 is suffering from 40% disability on account of the injuries sustained by him. Therefore, this Court is inclined to accept the disability sustained by the claimant at 40%.

12. Coming to the quantum of compensation, as per the evidence of P.W.3, PW-1 has sustained 40% permanent disability because of grievous injuries. According to the petitioner, he was aged about 23 years and used to earn Rs.15,000/- per month by doing Photo shoppiee in Manjeera Digital Studio, Maruti Nagar, Hyderabad. But no

evidence is produced, either oral or documentary, to prove his income. However, considering the avocation of the petitioner and the accident is of the year 2014, this Court is inclined to fix the income of the claimant as Rs.6,000/- per month as he is a skilled person. As per the records, the claimant was aged about 23 years at the time of accident. Therefore, the appropriate multiplier in light of the judgment of the Apex Court in **Sarla Verma v. Delhi Transport Corporation**¹ is “18”. Thus, the future loss of income due to 40% disability comes to **Rs.5,18,400/-** (Rs.6,000/- x 12 x 18 x 40/100). Insofar as the medical expenses, the Tribunal has rightly taken Rs.3,34,443/- towards medical expenses which needs no interference by this Court. That apart, the claimant is entitled to Rs.50,000/- towards two grievous injuries; Rs.15,000/- towards loss of earning during the treatment period; 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.9,62,843/- 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**².

¹ 2009 ACJ 1298 (SC)

² 2013 ACJ 1403 = 2013 (4) ALT 35

13. In the result, the M.A.C.M.A. is partly allowed by enhancing the compensation amount awarded by the Tribunal from **Rs.7,51,743/-** to **Rs.9,62,843/-**. 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. On such deposit, the claimant is entitled to withdraw the same. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.G. PRIYADARSINI

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