

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

M.A.C.M.A. No. 3085 of 2014

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the order and decree of the Motor Accidents Claims Tribunal-cum-III Additional District Judge, Mahabubnagar at Gadwal passed in O.P.No.649 of 2012, dated 17.04.2014.

For the sake of convenience, hereinafter, the parties are referred to as per their array before the Tribunal.

The claimant filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.6.00 lakh towards the injuries sustained by him in a motor vehicle accident that occurred on 24.09.2012. On 24.09.2012, while the claimant was proceeding in KSRTC bus from Nandinne Village to Gadwal and when the bus passing Kodapur Bus stage, one DCM van bearing No. AP-21-Y-7499, owned by respondent No.1 and insured with respondent No. 2, being driven by its driver in rash and negligent manner, came in the opposite direction and dashed the claimant, who sat in the rear seat of the bus. As a result, the claimant right hand got severed and fell on the road. Since the accident occurred only due to the rash

and negligent driving of the driver of the DCM Van, the claimant filed the claim petition against the respondents seeking compensation of Rs.6,00,000/- under different heads.

Vide aforesaid order, the Tribunal has awarded an amount of Rs.3,75,000/- towards compensation to the appellant-claimant against the respondents herein, who are owner and insurer of the offending vehicle i.e., DCM van bearing No. AP-21-Y-7499, jointly and severally, along with proportionate costs and interest @ 9% per annum from the date of filing the petition till realization of the amount for the injuries received by him.

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.

Learned counsel for the appellant-claimant contended that the appellant-claimant had suffered permanent disability at 70% and to prove the same, he has produced Ex.A.5-disability certificate issued by the Regional Medical Board, Government General Hospital, Kurnool. It is further contended that though the claimant is earning Rs.15,000/- per month by doing hotel business,

the Court below erred in taking the monthly earnings of the claimant at Rs.4,000/- and after deducting 1/4th towards personal expenses, awarded an amount of Rs.3,000/- per month. The court below erred in deducting 1/4th towards personal expenses, as in the case of injuries there would be no deductions. Therefore, the learned counsel prays to award just and reasonable compensation.

The learned Standing Counsel appearing on behalf of respondent No. 2 sought to sustain the impugned award contending that though P.W.1 produced Ex.A-9-income certificate, he has not substantiated the same by cogent evidence and therefore, the tribunal has rightly awarded compensation and there is no reason to interfere with the said findings arrived at by the tribunal.

A perusal of the judgment discloses that 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 offending vehicle. Learned counsel for the appellant is disputing the quantum of compensation awarded by the tribunal.

Therefore, this Court is inclined to consider the aspect whether the claimant is entitled for just compensation.

As seen from the medical record, the claimant right hand got severed and fell on the road and the disability was assessed at 70%. To prove the same, the claimant has produced Ex.A-5-Medical Certificate issued by the Medical Board. Considering the evidence of P.W.1, coupled with Ex.A.5-Medical Certificate, this Court is inclined to fix the disability suffered by the claimant at 70% as fixed by the Tribunal. Ex.A.9, salary certificate, discloses that the claimant was earning Rs.15,000/- per month and the same is not substantiated by cogent evidence. Therefore, it is just and proper to fix the monthly income of the claimant at Rs.5,000/-. His age was more than 45 years by the time of accident. Hence, under the head of loss of income due to disability, the claimant is awarded a sum of Rs.6,30,000/- ($\text{Rs.5,000} \times 12 \times 15 \times 70/100$). The amount of Rs.2,400/- awarded by the tribunal towards expenditure incurred on medication and transport charges is not interfered with. However, the rate of interest is awarded at 6% instead of 9% awarded by the Tribunal. Thus, in all, the claimant is entitled for the total compensation of Rs.6,32,400/-.

The M.A.C.M.A. is allowed enhancing the quantum of compensation awarded by the tribunal from Rs.3,75,000/-

to Rs.6,32,400/-. The enhanced amount shall carry interest at the rate of 6% per annum from the date of the petition till the date of realization. The amount shall be deposited within a period of two months from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the said amount. However, the claimant shall pay the deficit court fee on the enhanced compensation. No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.G. PRIYADARSINI

09.01.2023
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