HONOURABLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No.3986 of 2014

JUDGMENT:

Being not satisfied with the quantum of compensation awarded in the order and decree, dated 20.01.2012 made in O.P.No.1576 of 2009 on the file of the XI Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad (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 a claim-petition under the Motor Vehicles Act claiming compensation of Rs.1,50,000/- for the injuries sustained by him in a road accident that occurred on 10.07.2008. According to the appellant, on 10.07.2008, while the appellant and his friends were proceeding on a motorcycle and at about 1:30 p.m., when they reached Janaharsha Dream City, one Auto bearing No.AP 28 X 6497, owned by respondent No.1 and insured with respondent No.2, being driven by its driver in a rash and negligent manner, dashed the motorcycle from opposite direction, as a result, the appellant sustained injuries. Immediately after the accident, the appellant was shifted to Medicare Hospital for first aid and later, he was shifted to Bone Setting Centre, where he took treatment upto

19.09.2008 and thereafter he was admitted in Sanjeevani Hospital, where interlocking nailing was done and was discharged on 26.09.2008 and he continued his treatment as out patient.

3. After considering the claim and the counter filed by respondent No.2, and on evaluation of the evidence, both oral and documentary, the learned Tribunal has partly allowed the O.P. awarding compensation of Rs.1,26,400/- with interest at 7.5% 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. It is further submitted that though the appellant has suffered 15% disability the Tribunal has restricted the same to 10%. It is further contended that the appellant is aged about 22 years and due to the disability, he lost his income and the Tribunal has fixed the income of the injured at Rs.4,000/- per month 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 Doctor, who treated him, as P.W.3. In support of the injuries and as well as the disability sustained by him, the appellant got marked Exs.A3, A4, A6 and A13. P.W.3, the doctor, who treated him, deposed before the tribunal that after the appellant had taken first aid at Medicare Hospital, he had taken treatment and massage at a Bone Setting Center from 10.07.2008 to 19.09.2008.

10. Insofar as the income of the appellant is concerned, the contents of the charge sheet disclose that the appellant was doing a private job and he was aged about 22 years at the time of the accident. 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 A.13, disability certificate, issued by P.W.3, the appellant was suffering with disability at 15%. Therefore, this Court is inclined to fix the disability at 15%. Therefore, the appellant is entitled to Rs.4,500/- x 12 x 18 x 15/100 = Rs.1,45,800/- towards loss of income on account of the disability sustained by him.

11. Insofar as the medical expenses and treatment charges are concerned, though the appellant produced Ex.A7 and Ex.A8, the Tribunal did not consider the same. As per the record, the appellant had taken treatment in various hospitals as inpatient and he also filed medical bills i.e., Ex.A7 is the discharge bill for Rs.12,000/-, Ex.A8 is the bunch of medical bills for Rs.44,250/- and Ex.A5, for Rs.2,800/-. Therefore, considering the said evidence, this Court is inclined to award a sum of Rs.59,050/- towards medical expenses and treatment charges. Thus, looking into the nature of injuries sustained by the claimant, nature and period of treatment undergone by him and the

amount spent by him towards medical expenses, transportation, attendant charges and extra nourishment, this Court feels that the appellant is entitled to the following amount under various heads:-

Sl. No.	**Name of Head**	**Awarded by Tribunal Rs. Ps.**	**Awarded by this Court Rs. Ps.**
1.	Pain and suffering	20,000.00	20,000.00
2.	Medical expenses	3,000.00	59,050.00
3.	Extra nourishment, Transportation and attendant charges `	5,000.00	15,000.00
4.	Loss of income during the period of treatment	12,000.00	13,500.00
5.	Loss of earning on account of the disability at 15% (Rs.4,500/- x 12 x 18 x 15/100)	86,400.00	1,45,800.00
	TOTAL	**1,26,400.00**	**2,53,350.00**

12. In the result, the appeal is allowed by enhancing the compensation from Rs.1,26,400/- to Rs.2,53,350/- . 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

05.01.2023
tsr

HONOURABLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No.3986 of 2014

DATE: 05-01-2023