

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.465 of 2016

JUDGMENT:

Not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal-cum-I Additional District Judge, Khammam, in M.A.T.O.P. No.984 of 2004, dated 31.12.2011, the present appeal is filed by the claimant seeking enhancement of compensation.

2. According to the petitioner, on 14.05.2003 at 8-00 hours the petitioner along with his wife and daughter started from Khammam on their Hero Honda motorcycle to attend a marriage of their relative at Suryapet and when they reached near Mamillagudem village at about 8-30 a.m., auto trolley bearing No. AP 20 U 9561 being driven by its driver came from the opposite direction in a rash and negligent manner and dashed his motorcycle, as a result, they fell down and received grievous injuries and his daughter also received multiple injuries. Immediately after the accident, they were shifted to Government Hospital, Suryapet and from there he was shifted to Kinnera Bollineni Super Specialty Hospitals Private Limited for better

treatment and he was treated as in-patient and the doctors found that he sustained damage to his entire teeth, he underwent operation on three occasions for removal of fractured teeth and then wiring was done and teeth implantation was done. He spent an amount of Rs.90,000/- towards his treatment and medical expenses. He was in coma condition for several days. According to the petitioner, he was aged 39 years and he is an employee in RTC and was earning Rs.5,700/- per month. Thus, he claimed compensation of Rs.6,00,000/- under various heads.

3. Respondent Nos.1 and 2 filed counter disputing the manner of accident. It is further contended that the vehicle was insured with respondent No.3 and as such, respondent No.3 is liable to pay compensation and prayed to dismiss the petition.

4. Respondent No.3 filed counter disputing the manner of accident, nature of injuries and the treatment taken by him. It is further contended that the compensation claimed by the petitioner is excessive and therefore, prays to dismiss the petition.

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

1. *Whether the accident took place on account of rash and negligent driving of Auto trolley bearing No. AP 20 U 9561 by the 1st respondent, herein or on account of the contributory negligence of petitioners as pleaded by the respondents?*
2. *Whether the petitioner is entitled to any compensation, if so, to what extent and against whom?*
3. *To what relief?*

6. The tribunal also framed the following additional issues:

1. Whether the petitioner suffered any injuries and disability?
2. Whether the petitioner spent any amount towards medical and other expenses?
3. Whether there was insurance coverage?
4. Whether the driver of Hero Honda vehicle was not holding valid driving license?
5. Whether there was any breach of policy conditions?
6. What is the rate of interest that can be allowed?

7. In order to prove the issues, PWs.1 and 2 were examined and Exs.A1 to A7 got marked on behalf of the petitioner. On behalf of

respondent No.3, RW-1 was examined and Exs.B1 and B2 were marked.

8. Considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.32,577/- towards compensation to the appellant-claimant along with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of realization against the respondent Nos.1 to 3 jointly and severally.

9. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the respondent No.3-Insurance Company. Perused the material available on record.

10. The learned counsel for the appellant-claimant has submitted that although the claimant, by way of evidence of P.Ws.1 and 2 and Exs.A1 to A7, established the fact that the accident occurred due to the rash and negligent driving of the driver of the auto, and the petitioner has sustained permanent disability due to the injuries sustained by him in the accident, the Tribunal awarded very meager amount under various heads.

11. The learned Standing Counsel appearing on behalf of respondent No.3-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.

12. With regard to the manner of accident, after evaluating the evidence of PW-1 coupled with documentary evidence available on record, the Tribunal rightly held that accident occurred due to the rash and negligent driving of the driver of auto.

13. Coming to the quantum of compensation, the petitioner deposed that he sustained damage to his entire teeth and he underwent operation on three occasions for removal of fractured teeth and then wiring and teeth implantation was done. He spent an amount of Rs.90,000/- towards his treatment and medical expenses. In support of his case, PW-2, the Doctor who treated him deposed that the petitioner approached him with mandible fracture of broken teeth. He treated him for 45 days, as he is unable to open his mouth and after he removed wiring and instead of loss of teeth, he placed ceramic teeth

and he spent Rs.48,000/- towards hospital bill. He further deposed that in future any damage caused to his teeth, it has to be replaced. Further Ex.A3 certified copy of injury certificate shows that the petitioner has sustained four fractures. Therefore, considering the nature of injuries sustained by the petitioner, the tribunal awarded an amount of **Rs.25,000/-** towards pain and suffering and **Rs.7,500/-** towards loss of earnings, which are just and reasonable and as such, they are not disturbed. Further considering the fractures sustained by the petitioner, an amount of **Rs.1,00,000/-** is awarded towards four fractures @ Rs.25,000/- for each fracture and **Rs.20,000/-** towards extra nourishment, transport and attendant charges. An amount of **Rs.25,000/-** is also awarded towards future medical expenses. Since the petitioner has already received Rs.51,923/- from the department towards medical expenses, no amount is granted towards medical expenses. Thus in all the petitioner is entitled for **Rs.1,77,500/-** under all counts.

14. In the result, the M.A.C.M.A. is allowed in part by enhancing the compensation amount awarded by the Tribunal from Rs.32,577/- to **Rs.1,77,500/-**. The enhanced amount shall carry interest at 7.5%

p.a. from the date of petition till the date of realization, payable by respondent Nos. 1 to 3 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 of compensation amount by the respondents, the claimant is at liberty to withdraw the same without furnishing any security. No costs.

Miscellaneous petitions, if any pending, shall stand closed.

M.G.PRIYADARSINI,J

18.01.2023

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