

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3646 of 2005

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 04-04-2005 passed in O.P.No.622 of 2001 by the MACT –cum- II Additional District Judge (FTC), Khammam (for short, the Tribunal).

2. Brief facts of the case are that on 14-02-2001 while the claimant was traveling in an auto bearing No.AP 20 U 2468 from Pallipadu to Wyra and when it reached at R.C.M. Church, one RTC bus bearing No.AP 10 Z 3189 driven by its driver at high speed in rash and negligent manner and dashed against the auto. As a result, he sustained grievous injuries on bridge of nose, grievous injury on right leg and simple injuries on all over his body. Hence, he filed the claim petition claiming compensation of Rs.1.00 lakh against the respondents who are the driver and owner-RTC of the crime vehicle by contending that he was working as a clerk and earning Rs.2,000/- per month.

3. In the claim petition, the 2nd respondent-RTC filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the trial Court came to the conclusion that the accident occurred due to the rash and negligent driving on the part of the driver of the crime vehicle only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.54,000/- i.e. Rs.10,000/- towards two grievous injuries; Rs.25,000/- towards treatment; Rs.2,000/- towards pain and suffering and Rs.9,000/- towards loss of earnings. Accordingly, it partly allowed the claim petition granting compensation of Rs.54,000/- with interest at 9% per annum through out.

5. Dissatisfied with the quantum of compensation, the appellant/claimant filed the present appeal, seeking for enhancement of the compensation.

6. Heard.

7. Learned counsel for the appellant-claimant contends that the Tribunal ought to have granted Rs.25,000/- towards each injury as the claimant sustained two grievous injuries on his nose and right leg; the Tribunal ignored in granting compensation towards transportation and extra nourishment; and therefore, he prayed for fair compensation.

8. Learned Standing Counsel for the respondent-insurer contends that the fractures sustained by the claimant were already

healed and therefore no compensation can be granted to that effect and he prayed to dismiss the appeal.

9. Admittedly, the claimant sustained two grievous injuries to his nose and right leg. Taking into consideration the nature and grievous of the injuries, this Court feels that the compensation awarded by the Tribunal i.e. Rs.10,000/- towards injuries is meager hence, this Court feels that the Tribunal ought to have considered a bit more and thus, granting another Rs.10,000/- i.e. total Rs.20,000/- towards grievous injuries and Rs.5,000/- towards disfigurement due to the fracture on the nose and another Rs.5,000/- towards pain and suffering would be just and proper. So in all, Rs.20,000/- is enhanced in addition to that of Rs.54,000/- as granted by the Tribunal.

10. Except the above modification, the compensation awarded by the Tribunal shall remain unchanged.

11. In the result, the appeal is allowed in part by enhancing the compensation awarded by the Tribunal from Rs.54,000/- to Rs.74,000/- (Rupees Seventy Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is permitted to withdraw the entire amount. No costs.

12. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 30.08.2019
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