

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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M.A.C.M.A. No. 372 of 2006

JUDGMENT:

Not satisfied with the amount of Rs.40,500/- granted as compensation as against the claim of Rs.1,00,000/-, by order dated 05.07.2004, in O.P.No.431 of 2001 on the file of the Motor Accidents Claims Tribunal-cum-IV Additional District & Sessions Judge (FTC), Ranga Reddy District, at L.B. Nagar (for short, 'the Tribunal'), the instant appeal is preferred seeking enhancement under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act').

2. The appellant herein is the petitioner and the respondents herein are the respondents in the Original Petition before the Tribunal. For the sake of convenience, the parties herein are hereinafter referred to as they were arrayed in the Original Petition before the Tribunal.

3. The facts in brief are that on 21.11.2000 at 11:30 A.M., the petitioner, along with others, was traveling in a lorry bearing No. AP 11V 156 from Bahadurpura village to attend an agricultural meeting at Rajendranagar, and when the lorry reached near Tungakunta, Syedguda, another lorry bearing No.AP 28T 7677 dashed against the lorry in which the petitioner was traveling resulting in injuries to the petitioner. He was referred to Osmania General Hospital and was treated as in-patient for one week. He claims that he was earning Rs.3,000/- per month and spent Rs.10,000/- towards medical expenses and that he sustained permanent disability due to the injuries and sought compensation of Rs.1,00,000/- with interest at 24% per annum.

4. The 1st respondent-owner of the lorry bearing No. AP 28T 7677 remained *ex parte*. The 2nd respondent-insurer opposed the claim taking various pleas.

5. Basing on the said pleadings, the trial Court framed the following three issues:

“(i) Whether the accident is occurred on account of rash and negligence on the part of the driver of the crime vehicle Lorry bearing No. AP 28T 7677 ?

“(ii) That the petitioner is entitled to compensation, if so, to what amount and from which respondent ?

“(iii) To what relief?”

6. During enquiry, the petitioner examined himself as PW-1 and got marked Exs.A-1 to A-3. No one was examined on behalf of the 2nd respondent, but Ex.B-1-copy of insurance policy was marked with consent.

7. After assessing the evidence on record, the Tribunal found issue No.(i) in favour of the petitioner. On issue No.(ii), the Tribunal granted Rs.20,000/- for the first fracture, Rs.10,000/- for the second fracture of the same limb and Rs.2,500/- for other injuries and Rs.3,000/- towards medical expenses and Rs.5,000/- towards loss of earnings for six months and the petitioner was granted a total amount of Rs.40,500/- as compensation with interest at 9% per annum. It is that order which is under challenge stating that meager amount was granted against the claim of Rs.1,00,000/- and sought to grant the balance amount.

8. Heard Sri T. Viswarupa Chary, learned counsel for the petitioner and Ms. I. Maamu Vani, learned Standing Counsel for the 2nd respondent.

9. The description of injuries as can be found in Ex.A3 are (i) upper end of right fore arm including elbow joint (ii) laceration right elbow horizontal exposing bone. Though, no medical bills are forthcoming, the amounts of Rs.20,000/- and Rs.10,000/- granted by the Tribunal

towards two fractures are enhanced to Rs.25,000/- and Rs.15,000/- respectively. Concerning the amounts of Rs.3,000/- granted towards medical expenses and Rs.2,500/- granted towards other injury, the same are confirmed. Towards extra nourishment, an amount of Rs.5,000/- is granted. Towards loss of earnings for six months, the Tribunal awarded Rs.5,000/- which appears to be unreasonable, and hence, a sum of Rs.12,000/- is granted instead of Rs.5,000/-. Towards transport and hospitalization charges, Rs.5,000/- is granted.

11. Thus, the compensation is enhanced to Rs.62,500/-. So far as the interest is concerned, the Tribunal granted 9% interest per annum, which requires modification as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1]. Therefore, the interest is reduced to 7.5% per annum from 9% per annum on the amount granted by the Tribunal. Thus, interest at 7.5% per annum is granted on Rs.62,500/- from the date of petition till realization.

12. Accordingly, the appeal is allowed in part. No order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

JUSTICE A. SHANKAR NARAYANA

27th February, 2015
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[1] (2013) 9 Supreme Court Cases 54