

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.812 OF 2006

JUDGMENT:

Dissatisfied with the award of Rs.73,301/- as compensation as against the claim of Rs.3,00,000/- laid under Sections 166 and 163-A of the Motor Vehicles Act, 1988, by the order dated 10.01.2006 in O.P.No.671 of 2002 on the file of the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Adilabad, the instant appeal is preferred seeking enhancement.

2. For the sake of convenience, the parties are referred to as arrayed in the O.P. before the Tribunal.

3. The facts in brief are that on 15.04.2002 at about 3 pm, while the petitioner was asleep near a stone crusher, the driver of tanker bearing registration No.AP-26-U-1-45 drove it in reverse direction without observing if any one was present and thus, negligently driven the tanker due to which the rear side tyres of the tanker mounted on the waist of the petitioner resulting fractures to the petitioner. Immediately, the petitioner was shifted to Government Hospital, Nirmal, and from there he was referred to Sai Orthopaedic Hospital, Nirmal, where he underwent treatment for one month and thereafter, the petitioner took treatment in Osmania General Hospital, Hyderabad and also at Nizams Institute of Medical Sciences, Hyderabad and incurred Rs.50,000/- towards medical expenses. He claimed that he was working as tipper driver and used to earn Rs.3,000/- per month and due to the accident, he was unable to pursue his occupation and, therefore, prays to grant the compensation claimed.

4. The first respondent is the owner of the vehicle, who remained *ex parte*.

5. The second respondent filed counter opposing the claim attributing rash and negligence to the petitioner as he was not supposed to sleep near the stone crusher and thereby sought to exonerate it.

6. On the said plea, the Tribunal framed three issues about the responsibility for the accident.

1. “Whether the petitioner sustained injuries in the accident occurred on 15.04.2002 due to rash and negligent driving of vehicle bearing No.AP-26-U-1045 by its driver?
2. Whether the petitioner is entitled to any compensation? If so, to what amount and against whom?
3. To what relief?”

7. During enquiry, the petitioner himself examined as P.W.1 and examined the doctor as P.W.2 and marked Exs.A1 to A5. On behalf of the insurance company, no witnesses were examined and no documents were marked.

8. The Tribunal held issue No.1 in favour of the petitioner and on issue No.2, having found the nature of injuries as described in Ex.A3, granted a sum of Rs.30,000/- for three grievous injuries at Rs.10,000/- each and for fracture of pelvis Rs.15,000/- besides granting Rs.1,000/- to the simple injury and Rs.10,000/- for the ordeal of undergoing operation and Rs.12,301/- towards medical expenses.

9. Heard Sri S.Surender Reddy, learned counsel for the appellant. The first respondent refused to receive the notice and therefore, it is deemed to have been served on him. None appears on his behalf. Despite service, none appears for the second respondent.

10. Perused the order, oral and documentary evidence let in by the petitioner. Admittedly, there is no disability certificate forthcoming. However, having regard to the nature of injuries sustained by the petitioner, the Tribunal granted Rs.10,000/- each towards three grievous injuries, as mentioned in Ex.A3, which are grievous injuries on bladder urethra, right ankle and left ankle, one fracture of pelvis and one simple injury of abrasion on forehead. When kept in view, the nature of injuries and the sufferance he had undergone, the amounts granted towards injuries certainly, require enhancement. Hence, the same is enhanced to Rs.60,000/- as against Rs.30,000/-. Since Rs.15,000/- granted due to fracture of pelvis is on lower side as the petitioner was restrained from moving for considerable time, the same is enhanced to Rs.30,000/-. For simple injury as against Rs.1,000/- granted by the

Tribunal, Rs.3,000/- is granted. Rs.10,000/- granted towards operation is not disturbed. The amount of Rs.12,301/- granted towards medical expenses is maintained as it is. The Tribunal granted Rs.3,000/- towards transport and Rs.2,000/- towards attendant charges, which are enhanced to Rs.5,000/- each keeping in view of the fact that the petitioner has undergone treatment in Nizams Institute of Medical Sciences, Hyderabad. Towards extra nourishment, no amount was granted by the Tribunal. Hence, an amount of Rs.10,000/- is granted towards that head. Taking into consideration that the petitioner must be earning Rs.2,000/- per month, for eight months, a sum of Rs.16,000/- is granted towards loss of temporary earnings. Thus, a total sum of Rs.1,51,301/- is granted as compensation with interest @7.5% per annum as per the decision in ***Rajesh v. Rajbir Singh***.

11. Accordingly, the appeal is partly allowed. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal stand disposed of.

A. SHANKAR NARAYANA, J

1st April 2015.

RRB