

THE HON'BLE SMT. JUSTICE ANIS

CIVIL MISCELLANEOUS APPEAL NO. 1863 OF 2004

-

JUDGMENT:

This appeal is filed by the appellant/petitioner under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the award dated 28.04.2004 passed by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Adilabad, in O.P.No.223 of 2002, awarding compensation of Rs.3,000/-.

2. The claimant filed the above O.P under Section 166 of the Act, claiming compensation of Rs.1 lakh on account of the injuries sustained by him in a motor vehicle accident.

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

4. The brief averments made in the petition are as follows:

On 26.10.2001 at about 4 p.m. while the petitioner along with another was going in the lorry bearing No.ATC 4588 from Hyderabad to Mancherial and when they reached near Srirampur Canta, another lorry bearing No.AHT 118 came in opposite direction at high speed in a rash and negligent manner and dashed the lorry in which the petitioner was travelling, due to which the petitioner sustained grievous and multiple injuries all over his body. Therefore, the petitioner claimed compensation of Rs.1 lakh for the injuries sustained by him.

5. The respondents 1 and 3 remained ex parte before the Tribunal.

6. The brief averments made in the counter filed by the respondents 2 and 4 before the Tribunal are as follows:

The respondents put the petitioner to prove the manner of accident, age and income of the petitioner. The respondents specifically averred that the drivers of both the lorries were not having valid driving licences and that the lorries were used in violation of the terms and conditions of the policy as well

the permit, and finally, prayed the Court to dismiss the petition.

7. Basing on the pleadings, the Tribunal framed three issues and to substantiate the claim, PWs 1 and 2 were examined and got marked Exs.A.1 to A.6. On behalf of the respondents 2 and 4, no oral or documentary evidence was adduced.

8. Basing on the oral and documentary evidence, the Tribunal held that the accident was caused due to rash and negligent driving of the Tipper bearing No.AHT 118 by its driver and awarded compensation of Rs.3,000/- along with interest at 9% per annum.

9. Not satisfied with the award passed by the Tribunal, the appellant/petitioner preferred the present appeal.

10. The learned counsel for the appellant/petitioner argued that the petitioner sustained one grievous injury and one simple injury and due to the said injuries, he suffered a lot and that the Tribunal granted meagre compensation, and finally prayed the Court to enhance the compensation.

11. On the other hand, the learned counsel for the respondent No.4 stated that the compensation awarded by the Tribunal is just and reasonable and that the finding of the said Tribunal needs no interference, and prayed the Court to dismiss the appeal.

12. Having regard to the submissions made by both the learned counsel, the points that arise for consideration are:

1. Whether the appellant/petitioner is entitled for enhancement of compensation?
- 2 . Whether the compensation awarded by the Tribunal is just and reasonable?

13. **Points:**

A perusal of the oral and documentary evidence shows that the accident occurred on 26.10.2001 due to rash and negligent driving of the driver of Tipper bearing No.AHT 118 and the said finding of the Tribunal needs no interference.

14. Insofar as quantum of compensation is concerned, the petitioner himself

was examined as PW2 and filed the injury certificate Ex.A.6. A perusal of Ex.A.6 injury certificate shows that the petitioner sustained a punctured wound on his chin near lower lip and another punctured wound on right temple region of skull. For the said injuries, the Tribunal awarded Rs.3,000/- as reasonable compensation.

15. It is no doubt that in the accident, the petitioner sustained one simple injury and one grievous injury as per Ex.A.6 and due to the said injuries, he must have suffered some inconvenience. The Tribunal, no doubt, awarded Rs.3,000/- to the petitioner towards compensation, but it has not awarded any compensation under the heads of pain and suffering and medical expenses. Therefore, considering the evidence of PW2 that he took treatment in the Government Hospital, Mancherial and also in the Government Hospital, Karimnagar, an amount of Rs.7,000/- is awarded to the petitioner under the heads of pain and suffering and medical expenses. Thus, the appellant/petitioner is entitled for Rs.10,000/- instead of Rs.3,000/- awarded by the Tribunal.

16. Therefore, in view of the above discussion, the compensation awarded by the Tribunal is enhanced from Rs.3,000/- to Rs.10,000/- and on the enhanced amount of Rs.7,000/-, an interest @ 7.5% per annum is awarded from the date of appeal till the date of realisation.

17. Accordingly, the appeal is partly allowed. No order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

(ANIS, J)

13.11.2015

Anr

THE HON'BLE SMT. JUSTICE ANIS

-

CIVIL MISCELLANEOUS APPEAL NO. 1863 OF 2004

13.11.2015

Anr