

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.950 of 2005

JUDGMENT

Having got dissatisfied with the amount of Rs.16,700/- awarded as compensation, as against the claim of Rs.1,00,000/- laid under Sections 140, 163-A and 166 of the Motor Vehicles Act, 1988 and Rules 455 and 476 of A.P.M.V.Rules, by order dated 18.01.2005 in M.V.O.P.No.420 of 2000 on the file of Motor Vehicles Accidents Claims Tribunal-cum-VI Additional District Judge (Fast Track Court), Guntur, the instant appeal is preferred.

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

3. The facts, in brief, are that on 20.03.2000 at about 12.00 noon, the petitioner along with four others were travelling in an auto bearing No.AP 7T 6159 from Guntur bus stand to Pedakakani Thota and while the said auto reached near Thota, since the driver of the auto driven it in a rash and negligent manner at high speed and unable to control the speed, it fell into a ditch on the road side margin. The petitioner sustained grievous injuries. According to the petitioner, she sustained fracture to her right shoulder, ribs and left ankle and she was treated in Government General Hospital, Guntur. She claims that she underwent treatment in Government General Hospital for 15 days and sought the aforesaid amount as compensation. She also claimed that she was aged 35 years and

was working as an agricultural coolie, earning Rs.3,000/-per month.

4. The first respondent, who is the owner of the auto, remained *ex parte* and the second respondent opposed the claim raising various pleas.

5. The Tribunal framed three issues in order to fix responsibility for the accident. During enquiry, the petitioner examined herself as P.W.1 and marked Exs.A1 to A5 to substantiate her claim. On behalf of the contesting respondent, the employee of the Insurance Company was examined as R.W.1 and the true copy of attested policy dated 02.12.1999 was marked as Ex.B1.

6. The Tribunal, on appraisal of evidence on record, held issue No.1 in favour of the petitioner.

7. On issue No.2, the Tribunal, taking into consideration the description of injuries mentioned in Ex.A3-wound certificate issued by the Government General Hospital, Guntur, granted Rs.4,000/- towards medical expenses, Rs.10,000/-towards pain and suffering and Rs.2,700/- towards loss of earnings and thus, granted a total sum of Rs.16,700/- with interest at 9% per annum.

8. Aggrieved by the said order, the present appeal is preferred by the petitioner contending in the grounds of appeal that the Tribunal did not properly appreciate the evidence on record, and, though, Ex.A3-certified copy of the wound certificate shows that

she sustained fractures, a meagre amount was awarded as compensation and, therefore, she sought to grant the entire amount of Rs.1,00,000/- claimed by her.

9. Heard Sri B. Parameswara Rao, learned counsel for the appellant and Sri G. Vishweswar Reddy, learned counsel for the second respondent. The first respondent though served with notice, none appears.

10. Perused the order and the oral and documentary evidence let in by the respective parties. The Tribunal, in fact, while determining the compensation and awarding the same, given liberty to the second respondent to recover the amount from the first respondent, in regard to which finding recorded by the Tribunal there is no challenge by either side.

11. Thus, the short question that arises for consideration is, whether the compensation awarded by the Tribunal is just and adequate.

12. As seen from Ex.A3 contents, the petitioner sustained fracture of right elbow and multiple rib fractures on the ankle as reflected from the X-ray marked as Ex.A4, which is described as 'grievous' in nature by the concerned Civil Assistant Surgeon of the Government General Hospital, Guntur. It is, no doubt, true that the Medical Officer is not examined. But the Tribunal has recorded a definite finding that there were three fractures, which were grievous in nature and that was the reason, a sum of Rs.15,000/-was awarded. Though, it is not forthcoming that how

long the petitioner was treated as in-patient, from Exs.A3 and A5, she must have undergone treatment as inpatient. This apart, when there are three fractures, more particularly, multiple rib fractures on the ankle, certainly, she would have been disabled to pursue her agricultural labour work. In that view of the matter, taking Rs.50/-per day as her earnings and at least Rs.2,000/- per month, she is entitled to Rs.12,000/-for six months, as against a sum of Rs.2,700/-granted by the Tribunal. Keeping in view, the nature of injuries and the sufferance she has undergone, as against the amount of Rs.15,000/-granted by the Tribunal, the same is enhanced to Rs.30,000/-; towards medical expenses, an amount of Rs.4,000/-is granted by the Tribunal and the same is maintained as no proof is forthcoming as to spending any amount towards medical expenses; towards attendant and transport charges, a sum of Rs.4,000/-is awarded. Thus, the petitioner is totally entitled to Rs.50,000/-as against Rs.16,700/- granted by the Tribunal. The Tribunal granted interest at 9% per annum. However, the petitioner is entitled to interest at 7.5% per annum on the entire compensation of Rs.50,000/- from the date of the petition till realisation, as per the decision of the Hon'ble Apex Court in

Rajesh and others v. Rajbir Singh and others^[1].

13. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the impugned award passed by the Tribunal, by enhancing the compensation and reducing the rate of interest from 9% to 7.5% per annum as indicated above. 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

10th March, 2015
sj

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