

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.1169 of 2005

JUDGMENT

The instant appeal is preferred by the petitioner seeking enhancement of compensation. An amount of Rs.1500/-was granted by the Tribunal as against the claim of Rs.70,000/- laid under Sections 163-A and 166 of the Motor Vehicles Act, 1988, by order dated 18.01.2005 in O.P.No.418 of 2000 on the file of Motor Accidents Claims Tribunal-cum-VI Additional District Judge (Fast Track Court), Guntur.

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 71 6159 from Guntur bus stand to Pedakakani Thota and while the auto reached near Thota, its driver driven it in a rash and negligent manner at high speed and it fell into ditches on the road margin, due to which, the petitioner sustained injuries. According to the petitioner, she sustained fracture to her right hand and one grievous injury and she was shifted to Government General Hospital, Guntur and later shifted to a private hospital, wherein she was treated as inpatient for seven days and she laid claim of Rs.70,000/-.

4. Respondents 1 and 2 are the owner and insurer of the auto respectively. The first respondent remained *ex parte* and the second respondent opposed the claim requiring the petitioner to prove the material allegations mentioned in the

petition.

5. The Tribunal framed three issues about the responsibility for the accident. During enquiry, the petitioner examined herself as P.W.1 and marked Exs.A1 to A5. On behalf of the second respondent, one of its officials of local branch was examined as R.W.1 and marked Ex.B1.

6. The Tribunal, on issue No.1 held that due to rash and negligent driving of the driver of the auto, the accident occurred, and on issue No.2, having found from Ex.A3-Medical certificate that there was one multiple red colour abrasion on the right finger and there was no bony injury, granted Rs.500/-towards medical expenses and Rs.1,000/- towards pain and suffering, in total a sum of Rs.1500/-was granted.

7. Having not satisfied with the award of the said amount, the instant appeal is preferred contending that the Tribunal has not properly appreciated the evidence on record and awarded meagre amount as compensation and sought to grant the balance amount.

8. Heard Sri B. Parameswara Rao, learned counsel for the appellant and Sri G. Visweshwar Reddy, learned Standing Counsel for respondent No.2. Despite service of notice on R1, none appears for him.

9. Perused the order and the oral and documentary evidence let in by the petitioner. The petitioner has not filed any medical bills, despite the same, the Tribunal granted Rs.500/-towards medical expenses and Rs.1000/-towards pain and suffering. As seen from Ex.A3, there was multiple red colour abrasion on the right finger and therefore, keeping in view the temporary sufferance she has undergone, the amount of Rs.1500/-awarded by the Tribunal is enhanced to Rs.10,000/- as compensation. 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.10,000/- from the date of petition till realisation, as per the

decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others.**

10. 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

26th March, 2015

sj