

**HONOURABLE SRI JUSTICE A. SHANKAR
NARAYANA**

M.A. C.M.A. No.955 OF 2005

JUDGMENT:

Seeking enhancement of compensation granted at
Rs.1,500/-

by the learned Chairman, Motor Accidents Claims
Tribunal - cum - VI Additional District Judge, Guntur, by
the judgment dated

18-01-2005, in M.V. O.P. No.419 of 2000, for the simple
injuries sustained by the appellant in a road accident on
20-03-2000 at about 12-00 noon, while she was travelling
in the auto-rickshaw bearing No.AP-7T-6159, from Guntur
bus stand to Pedakakani Thota, due to the negligent
driving of its driver, as against the claim laid by her for
Rs.70,000/-, under Sections 140, 163-A and 166 of the
Motor Vehicles Act, 1988 read with Rules 455 and 476 of
the A.P. Motor Vehicles rules, 1989, she preferred the
instant appeal.

2. The appellant herein is the claimant in the O.P.
before the Tribunal, while respondent Nos.1 and 2, who
are owner and insurer of the auto-rickshaw bearing
No.AP-7T-6159 that involved in the accident, are
respondent Nos.1 and 2 respectively.

3. For the sake of convenience, the parties herein

are hereinafter referred to as arrayed in the O.P. before the Tribunal.

4. The 1st respondent, owner of the auto-rickshaw, remained

ex parte in the O.P. before the Tribunal. The 2nd respondent, insurer of the auto-rickshaw, opposed the claim.

5. The Tribunal having framed three issues and examining the claimant as PW.1 and marking Exs.A-1 to A-5 on her behalf, and also examining an employee of the insurer as RW.1 on behalf of the insurer and marking Ex.B-1, attested copy of insurance policy of the auto-rickshaw that involved in the accident, construing that the claimant sustained only simple injuries, granted a sum of Rs.1,000/- towards pain and suffering and Rs.500/- towards medical expenses; that has been the reason why, the instant appeal is preferred by the claimant contending that meagre amount was granted despite the fact that she suffered great inconvenience and treated as in-patient for seven (7) days in Government Head Quarters Hospital, Guntur.

6. Heard Sri B. Parameswara Rao, learned counsel for the claimant (appellant), and Sri M. Hari Babu, learned counsel for respondent No.2 - insurer.

7. Despite service of notice, none appeared on behalf of respondent No.1, owner of the auto-rickshaw, who remained *ex parte* before the Tribunal also.

8. Perused the order under challenge and the evidence on record let in by the claimant as well as the insurer.

9. Since no finding is challenged by the insurer despite examining RW.1 and marking Ex.B-1, insurance policy, the scope in the instant appeal is limited to the extent of examining the question whether the petitioner is entitled to enhanced compensation.

10. A perusal of Ex.A-3, certified copy of the wound certificate issued by the Government Hospital, Guntur, shows that the claimant sustained diffused swelling of left leg and abrasions on the left foot and, of course, the injuries are described as simple, despite taking X-ray. However, the amount of Rs.1,500/- awarded by the Tribunal appears to be on lower side, when kept in view, the diffused swelling of left leg and abrasions on the left foot and for the reason that the claimant was treated as in-patient for seven (7) days in the Government Hospital, a sum of Rs.5,000/- is granted towards diffused swelling and abrasions on left leg and foot and a sum of Rs.3,000/- is awarded towards pain and suffering.

11. Thus, the claimant is entitled to a total compensation of Rs.8,000/- (Rupees eight thousand only) as against Rs.15,00/- awarded by the Tribunal, and the same is accordingly awarded, with interest on the entire compensation at 7.5% per annum, as against 9% awarded by the Tribunal, from the date of petition till the date of realisation.

12. 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, as stated supra. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

February 12, 2015.

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