

THE HON'BLE SMT. JUSTICE ANIS

M.A.C.M.A. No. 2491 OF 2005

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 14.06.2005, passed by the Motor Vehicles Accidents Claims Tribunal-Cum- X Additional District Judge, (FTC) Guntur at Narasaraopet, in M.V.O.P.No.485 of 2000, awarding compensation of Rs.58,505/-.

2. The petitioner filed the above O.P. under Section 166 of the Act, claiming compensation of Rs.1,35,000/- with proportionate costs for the injuries sustained by him.

3. The brief averments made in the petition are as follows.

On 05.04.2000 at about 7.15 pm., while the petitioner was standing on the road margin along with others near Adavi Parentalamma Temple at Bondilipalem village, the driver of the Jeep bearing No. AAE 2979 drove the Jeep in a rash and negligent manner and dashed against the petitioner from his behind as a result he fell down and received grievous injuries to his right leg resulting permanent disability. Immediately the petitioner was taken to the Government hospital Vinukonda. Thereafter, he was shifted to Government General Hospital Guntur where he underwent treatment as in-patient. The police registered a case in Crime No.20 of 2000. The petitioner sustained multiple fractures to his right leg above the ankle joint, operation was conducted to his right leg and external fixation of rods was done. His right leg was shortened and has become lean, and he was limping and cannot walk without the assistance of others. He claimed a total amount of Rs.1,35,000/- towards compensation for the injuries received by him.

4. The brief averments made in the written statement filed by the 1st respondent are as follows:

The 1st respondent put the petitioner to prove the manner of

accident, age and income of the petitioner and stated that the accident was occurred due to the negligence of the petitioner and there was no negligence on the part of the Jeep driver. The injuries received by the petitioner are simple in nature. The Jeep bearing No.AAE 2979 was insured with the 2nd respondent and the same is in force at the time of the accident and the insurance company is liable to pay the compensation and hence he prayed to dismiss the petition.

5. The brief averments made in the written statement filed by the 2nd respondent are as follows:

The 2nd respondent put the petitioner to prove the manner of accident, age, income and the injuries sustained by him. It is stated that the injuries sustained by the petitioner were simple in nature and he is not suffering from any financial or physical disabilities. It is further stated that the driver of the vehicle was not holding valid driving licence and the Jeep AAE 2979 was not insured with the 2nd respondent as on the date of the accident as such the insurance company is not liable to pay the compensation, and prayed the Court to dismiss the petition.

6. Basing on the pleadings, the Tribunal framed three issues. To substantiate his claim the petitioner examined PWs.1 to 3 and got marked Exs.A.1 to A.4 apart from Ex.X.1. On behalf of the second respondent, RW.1 was examined and Ex.B.1 to B.4 were marked.

7. Basing on the evidence on record and after considering the evidence of PW.1 and Exs.A.1 and A.2, Copies of F.I.R and charge sheet, the Tribunal held that the accident was occurred due to rash and negligent driving of the driver of the Jeep bearing No.AAE 2979 and accordingly awarded compensation of Rs.58,505/- along with interest at 9% p.a.

8. Not satisfied with the compensation awarded by the Tribunal, the appellant/petitioner preferred the present appeal.

9. The learned counsel for the appellant argued that the petitioner suffered one grievous injury and one simple injury and the

Tribunal has not considered the disability suffered by the appellant properly and granted meagre compensation. It is also argued that the Insurance policy of the vehicle was in force and the 1st respondent-owner of the vehicle is liable to pay the compensation to the appellant. He also argued that the Tribunal has not awarded any compensation towards extra nourishment, transportation, medical expenses and other incidental expenses arose during the course of treatment, and prayed this Court to enhance the compensation.

10. On the other hand the learned counsel for the Insurance Company argued that the Tribunal, after considering the evidence on record, rightly granted just and reasonable compensation under all heads; that the findings given by the Tribunal need no interference and that the appellant is not entitled for any enhancement and finally prayed this Court to dismiss the appeal.

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

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

12. **Point No.1:**

A perusal of the evidence on record shows that the appellant as PW.1 in his evidence described how he sustained the injuries in the accident that occurred on 5.04.2000 and filed Exs.A.1-copy of F.I.R and A.2-copy of charge sheet. A perusal of the documents clearly establish that the driver of the 1st respondent drove the vehicle in a rash and negligent manner due to which the appellant sustained grievous injuries. Thus the findings of the Tribunal in this regard need no interference.

13. **Point No.2:**

Coming to the quantum of compensation, the Tribunal, taking into

consideration of the disability suffered by the petitioner, rightly awarded Rs.48,600/- towards loss of earnings, Rs.2,000/- towards pain and suffering and by perusing the medical bills filed by the appellant granted Rs.7,905/- towards medical expenses and the said findings need no interference as the same are based on the record.

14. The main grievance of the appellant is that in the accident he received grievous injuries and admitted in the hospital. His right leg was angulated and shortened. He is still limping and unable to walk properly. The Tribunal has not granted any compensation for extra nourishment and transportation charges.

15. As per the evidence of PW.3 and Ex.A.3-wound certificate the appellant received one grievous injury and one simple injury. The petitioner suffered 30% permanent and partial disability. It is no doubt true that the petitioner was bedridden from 5.04.2000 to 31.05.2000, which shows that he was in hospital for a considerable period. Therefore the petitioner is entitled for Rs.5000/- towards extra nourishment and Rs.5000/- towards transportation charges. Thus an amount of Rs.10,000/- is enhanced as compensation.

16. Accordingly, the compensation awarded by the Tribunal is enhanced from Rs.58,505/- to Rs.68,505/-. The enhanced amount of Rs.10,000/-, carries interest @ 7.5% p.a. from the date of appeal till the date of realisation.

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

(ANIS, J)

17th July, 2015
Js.