

HONOURABLE SRI JUSTICE A. SHANKAR

NARAYANA

M.A. C.M.A. No.1812 OF 2005

JUDGMENT:

Dissatisfied with the award of Rs.25,000/- towards compensation, as against the claim of Rs.1,00,000/-, laid under Section 166 of the Motor Vehicles Act, 1988, seeking enhancement of the same, petitioner preferred this Civil Miscellaneous Appeal against the order and decree, dated 22-12-2003, passed by the learned Chairman, Motor Accidents Claims Tribunal - cum - III Additional District and Sessions Judge, L.B. Nagar, Ranga Reddy District, in O.P. No.292 of 2001.

2. The appellant herein is the petitioner in the O.P. before the Tribunal, while the sole respondent is A.P.S.R.T.C., Musheerabad, Hyderabad (Corporation).

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

4. The fact-situation occurring in the instant case is that on 15-01-2001 at 1-30 p.m., while the petitioner was proceeding on his Scooter bearing No.AP-28-L-6949 from Mamidipally village towards Charminar side, when

reached Athireddy Gudem on Mallepally Road, APSRTC bus bearing No.AP-9-Z-3318 came at high speed in a rash and negligent manner, and hit the scooter of the petitioner, due to which, he fell down and sustained fracture to his left knee, head injury, injury on chest and other multiple injuries. Immediately, he was shifted to Osmania General Hospital for treatment. He claims that later he was treated in Rohini Hospital and sought compensation of Rs.1,00,000/- against the respondent.

5. The Corporation resisted the claim on the ground that the compensation sought is excessive and attributed negligence to the petitioner rather than to its bus driver.

6. The Tribunal framed three (3) issues in the direction of fixing responsibility for the accident.

7. During enquiry, the petitioner examined himself as PW.1 and marked Exs.A-1 to A-9. On behalf of the Corporation, RWs.1 and 2 were examined, but no documents were filed.

8. The Tribunal, on issue No.1, having considered the evidence of RWs.1 and 2, rejected their evidence and found that due to rash and negligent driving of the driver of the Corporation bus, the accident had occurred and thereby held issue No.1 in favour of the petitioner. On issue No.2, based on the description of injuries found in

Ex.A-3 medico legal certificate, Ex.A-4 discharge summary issued by Rohini Hospital, and having found comminuted fracture of right patella, granted a total sum of Rs.25,000/- towards compensation.

9. Dissatisfied with the awarded, on the ground that meagre amount was granted by the Tribunal, the instant appeal is preferred by the petitioner contending in the grounds of appeal that despite the fact that the petitioner sustained comminuted fracture of right patella, the Tribunal did not appreciate the evidence on record and, therefore, sought to grant the balance amount.

10. Heard Sri S. S. Satyam Reddy, learned counsel for the petitioner (appellant), and Sri C. Sunil Kumar Reddy, learned counsel for the respondent Corporation.

11. Perused the order and evidence on record, both oral and documentary, let in by the petitioner.

12. So far as enhancement of compensation is concerned, Ex.A-4 clinches the issue. It shows that the petitioner sustained comminuted fracture of right patella and has undergone surgical intervention. Even Ex.A-3 - medico legal certificate issued by the Osmania General Hospital, Hyderabad, would reflect the nature of injuries sustained by the petitioner. However, concerning the amounts granted by the Tribunal, it awarded a sum of

Rs.20,000/- towards fracture, Rs.5,000/- towards medical expenses, and, thus, awarded a total sum of Rs.25,000/- as compensation, which is, certainly, on lower side, when examined the seriousness of the injuries, one of which being a comminuted fracture of pattella. Hence, the petitioner is entitled to a sum of Rs.25,000/- towards fracture and pain and suffering and Rs.5,000/- extra-nourishment. The amount of Rs.5,000/- granted by the Tribunal towards medical expenses is enhanced to Rs.11,000/- based on Ex.A-5 - discharge bill issued by Rohini Hospital, dated 25-01-2001, apart from granting the amount of Rs.7,126/- covered by Ex.A-6 medical bills.

13. Thus, the petitioner is entitled to a total sum of Rs.48,126/- (Rupees forty eight thousand one hundred and twenty six) as against Rs.25,000/- granted by the Tribunal, towards compensation and the same is accordingly granted, with interest at 7.5% per annum from the date of petition till realisation, as against 9% granted by the Tribunal, on the entire compensation, as per the decision of the Hon'ble

Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1].

The point is accordingly answered.

14. 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 indicated above. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

February 24, 2015.

PV

[\[1\]](#) 2013ACJ1403 = 2013(4)ALT35