

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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M.A.C.M.A. No.970 of 2005

JUDGMENT:

Dissatisfied with the amount of Rs.7,000/- granted as compensation by the order dated 07.02.2005 in O.P.No.195 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge (Fast Track Court), Asifabad, Adilabad District (for short, 'the Tribunal') as against the claim of Rs.75,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') and the Rules framed thereunder, for the injuries sustained by the petitioner in a road accident, the instant appeal is preferred seeking enhancement of compensation.

2. The appellant herein is the petitioner, while the respondent Nos.1 to 4, who are the respective owner and insurer of the jeep bearing registration No.AP IA 7575 and lorry bearing registration No.AP 25T 3339 respectively, were respondents in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts in brief are that on 17.09.2000 at about 7-30 hours, while the petitioner and others were going in a jeep bearing registration No.AP IA 7575 from CCC corner to Buruguda village and when it reached near Rebbenna, since the driver of the jeep driven it in a rash and negligent manner, hit the lorry coming in the opposite direction, resulting in fracture to her left wrist and injuries to other persons. She was shifted to Government Hospital, Bellampalli, from there shifted to Area Hospital, Ramakrishnapur, for better treatment. The concerned Station House Officer also registered a case in Crime No.77 of 2000 against the driver of the jeep. She claimed that she

was 35 years old earning Rs.2,000/- per month and due to the injuries, she became incapacitated and she spent Rs.15,000/- towards medical expenses, and, therefore, sought Rs.70,000/- from respondent Nos.1 and 2, who are the owner and insurer of the jeep, and the insurer and owner of the of the lorry as respondent Nos.3 and 4 respectively.

5. Respondent Nos.1 and 4, who are the owners of the respective vehicles, remained *ex parte*. Respondent Nos.2 and 3-insurers of both the vehicles opposed the claim by filing separate counters and also pleaded the violation of conditions of the policy. Respondent No.3, of course, even denied the involvement of the lorry in the alleged accident and its liability on the ground that the accident had occurred only on account of rash and negligent driving of the jeep driver even as per the case of the petitioner. Both respondent Nos.2 and 3 obtained permission to take out all defences available under Section 170 of the Act by filing I.A.Nos.516 of 2002 and 1127 of 2003 respectively.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry, the petitioner examined herself as P.W.1 besides marking Exs.A.1 to A.6; whereas, on behalf of the contesting respondents, no witnesses were examined and no documents were filed.

7. The Tribunal, on appraisal of evidence, both, oral and documentary, let in by the petitioner, tendered finding on issue No.1 in favour of the petitioner holding that only due to rash and negligent driving of the driver of the jeep, the accident had occurred. On issue No.2, the Tribunal referring to Ex.A.2 wound certificate, granted Rs.3,000/- towards loss of temporary earnings, Rs.2,000/- towards medical expenses and Rs.2,000/- towards pain and suffering, and, thus, a total amount of Rs.7,000/- was awarded as compensation with interest at 9% per annum.

8. Aggrieved of the aforesaid order, the instant appeal is preferred seeking enhancement of compensation on the ground that the Tribunal did not properly appreciate the evidence on record despite the fact that the petitioner sustained fractures, and, therefore, sought to grant balance amount.

9. Heard Sri S.Surender Reddy, learned counsel for the appellant, and Sri P.Harinath Gupta, learned counsel for the 3rd respondent-insurer of the lorry. None appears for the other respondents, despite service of notices on them.

10. Perused the order under challenge and the evidence on record, both, oral and documentary, let in by the petitioner. There is no need to probe into other aspects except the injuries sustained by the petitioner in determining whether the compensation awarded by the Tribunal is just and adequate.

11. Ex.A.2 wound certificate would reflect bruise and fracture, even the Tribunal also arrived at the same conclusion and accordingly recorded finding. Granting Rs.2,000/- by the Tribunal towards pain and suffering is abnormally low when kept in view, the pain and suffering undergone by the petitioner. Therefore, it is enhanced to Rs.20,000/-. So far as the earnings of the deceased are concerned, the Tribunal has taken two months loss of earnings at Rs.3,000/-, which is enhanced to Rs.6,000/- by taking the period as four months for regaining normalcy for the petitioner. Towards medical expenses, though, there is no proof, the Tribunal awarded Rs.2,000/-, which is confirmed. Besides the same, towards extra nourishment and transport charges, a sum of Rs.4,000/- is awarded.

12. Thus, the petitioner is entitled to a total sum of Rs.32,000/- (Rupees thirty two thousand) as against Rs.7,000/- granted by the Tribunal, towards compensation and the same is accordingly granted,

with interest at 7.5% per annum on the entire amount from the date of petition till realisation, as against 9% granted by the Tribunal, in view of the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1].

13. Accordingly, the instant 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, and confirming the same in all other respects. There shall be no order as to costs.

14. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.

A. SHANKAR NARAYANA, J

12th March, 2015

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^[1] 2013 ACJ 1403