

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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M.A.C.M.A.No.1220 of 2006

JUDGMENT:

Dissatisfied with the amount of Rs.16,000/- granted by the Tribunal as compensation as against the claim of Rs.50,000/- laid under Section 166 read with Section 140 of the Motor Vehicles Act, 1988 (for short, 'the Act') by the order dated 09.03.2006 in O.P.No.491 of 2004 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge (III FTC), Nalgonda at Miryalguda (for short 'the Tribunal'), the instant appeal is preferred.

2. The appellant herein is the petitioner, while the respondent Nos.1 and 2, who are the owner and insurer of the private bus bearing No.AP-07-U-7889 respectively, were respondents in the original petition.

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

4. The facts in brief are that on 13.08.2003 at about 11.45 AM, while the petitioner was travelling in a jeep as a cleaner from Macherla to Nagarjunasagar and when it reached near Econampet turning, the driver of the private bus bearing No.AP-07-U-7889, coming from Hyderabad towards Macherla in opposite direction, drove the bus in a rash and negligent manner and at high speed and hit the jeep, due to which the jeep turned upside down resulting in injuries to the petitioner. He was immediately shifted to Government Hospital, Macherla. The petitioner claims that he was 22 years old on the date of accident, drawing salary of Rs.3,000/- per month as cleaner and used to contribute the same to his family. Due to the injuries, he became permanently disabled and unable to do his regular occupation and, therefore, sought Rs.50,000/- as compensation against respondent Nos.1 and 2, who are the owner and insurer of the private bus respectively.

5. The 1st respondent-owner of the vehicle remained *ex parte* before the Tribunal and the 2nd respondent-Insurance Company opposed the claim.

6. Basing on the above pleadings, the Tribunal framed three issues about the

responsibility for the accident. During enquiry, the petitioner himself was examined as P.W.1 and marked Exs.A.1 to A.12. On behalf of the 2nd respondent-Insurance Company, no witnesses were examined, but a copy of policy was marked as Ex.B.1.

7. The Tribunal basing on the evidence of PW.1 supported by Ex.A.1, held issue No.1 in favour of the petitioner. On issue No.2, the Tribunal granted Rs.8,000/- towards four simple injuries and also granted Rs.2,000/- under the head of loss of future earnings and, thus, a total sum of Rs.16,000/- was granted by discarding the disability certificate-Ex.A.12 said to have issued by the medical board and recorded a definite finding in Para '11' of the order.

8. It is the said order which is under challenge, in the instant appeal preferred by the petitioner on the ground that the Tribunal did not properly appreciate the documents filed by the petitioner and the Tribunal also did not take into consideration Ex.A.12-disability certificate issued by the District Medical Board and, therefore, sought to grant balance amount.

9. Heard Sri Kiran Palakurthi, learned counsel for the appellant and Sri Bathula Raj Kiran, learned counsel for the 2nd respondent-insurance company. Though Respondent No.1-owner of the vehicle is not effected with notice in the instant appeal, since he remained *ex parte* before the Tribunal, his absence would not make any difference in deciding the controversy herein.

10. Perused the order under challenge and oral and documentary evidence let in by the petitioner. Admittedly, Ex.A.2 shows that the petitioner sustained four simple injuries, which are as follows:

“(1) Lacerated injury 3x1 cms on right side of forehead

(2) Abrasion of 7x3 cms on right side of chest

(3) Multiple thorn pricks on right fore arm

(4) Tenderness chest”

11. The finding recorded by the Tribunal in rejecting Ex.A.12 on the ground that despite the fact that the petitioner sustained simple injuries cannot be found fault. Even otherwise none were examined to prove that the disability certificate was issued by the Medical Board, Nalgonda District. The amounts awarded by the

Tribunal i.e., Rs.1,000/- towards medical bill, though, the medical bills are Rs.520/- only, Rs.1,000/- towards extra nourishment, Rs.2,000/- towards pain and suffering and Rs.8,000/- towards injuries, as such, does not warrant interference and, therefore, maintained. On the amounts granted by the Tribunal towards four simple injuries, without there being legally acceptable evidence to show that the petitioner was subjected to greater inconvenience, the petitioner is not entitled to any enhancement.

12. In the result, the appeal is dismissed. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

Date: 11.02.2015.

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