

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

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**M.A.C.M.A. No.724 of 2005**

**JUDGMENT:**

The instant appeal is preferred by the petitioner in O.P.No.1249 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Rangareddy District (for short, 'the Tribunal') dissatisfied with the award of Rs.49,200/- with interest at 9% per annum as compensation by order dated 05.11.2004 as against the claim for Rs.1,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the injuries sustained by him in a road accident.

2. The appellant herein is the petitioner, while the respondent Nos.1 and 2, who are the owner and insurer of the lorry bearing registration No.AP 16W 946 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 25.10.1998, the petitioner along with one Sridhar Reddy was proceeding from Hyderabad to Nagarjuna Sagar on Hero Honda motorcycle bearing registration No.AP 9K 88 and when they reached V.R.O.Organisation, Vinjapur village at about 10-30 a.m., a lorry bearing registration No.AP 16W 946 belonging to the 1<sup>st</sup> respondent coming in opposite direction driven at high speed and in a rash and negligent manner hit the petitioner's vehicle, due to which he and Sridhar Reddy fell down and sustained injuries and they were shifted to Osmania General Hospital. He claims that subsequently he took treatment in Kamineni Hospital at L.B.Nagar and Medicare Hospital, Hyderabad. It is according to him, he has become incapacitated to do his job and sought Rs.1,50,000/- against the

respondents 1 and 2, who are the owner and insurer of the lorry.

5. Before the Tribunal, the 1<sup>st</sup> respondent remained *ex parte* and the 2<sup>nd</sup> respondent opposed the claim raising various pleas.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry before the Tribunal, the petitioner examined himself as P.W.1 besides examining Dr. P.Raju and Dr.D.Venkateswar Reddy as P.Ws.2 and 3 and marked Exs.A.1 to A.14 in order to substantiate his claim made before the Tribunal. On behalf of the contesting respondent-Insurance Company, no witnesses were examined, but marked a copy of insurance policy as Ex.B.1 on consent.

7. The Tribunal, on appraisal of evidence, both, oral and documentary, let in by the parties, held issue No.1 in affirmative; and on issue No.2, taking into account certain admissions made by P.W.1, gave a finding that the petitioner had given false statement before the police and later claimed that he is an employee. Besides the same, Ex.A.14 medical bills does not relate to him and some bills were issued prior to the date of accident, and, thus, keeping in view, that P.W.1 sustained one simple fracture, which was united well, granted Rs.20,000/- towards injury, Rs.19,200/- towards medical expenses covered under Ex.A.14, Rs.5,000/- towards pain and suffering and another Rs.5,000/- towards extra nourishment, and, thus, total sum of Rs.49,200/- was granted as compensation with interest at 9% per annum.

8. It is the aforementioned order which is challenged by preferring the instant appeal contending in the grounds of appeal that the Tribunal did not properly appreciate the evidence, both, oral and documentary, with regard to the disability to a tune of 10% to 15%, and,

that too, without there being any rebuttal evidence and that the Tribunal was wrong in not taking any notional income. It is also stated that the Tribunal ought not to have granted a meager amount of Rs.5,000/- towards pain and suffering, and sought to enhance the compensation.

9. Heard Sri M.Ram Mohan Reddy, learned counsel for the appellant and Sri C.Prakash Reddy, learned Standing Counsel for the 2<sup>nd</sup> respondent-Insurance Company. Despite service of notice on the 1<sup>st</sup> respondent, none represents him.

10. Learned counsel for the petitioner-appellant contended that the petitioner was admitted in the hospital on different spells and treated as an inpatient and he was operated and implants were inserted in his right leg and the evidence of P.Ws.2 and 3 would show that the petitioner may require further surgical intervention, and, therefore, sought to enhance the compensation. On the other hand, it is contended by the learned Standing Counsel for the 2<sup>nd</sup> respondent-Insurance Company, the petitioner pressed into service some bills which were even prior to the date of the accident and P.W.1 even admitted that Ex.A.10 X-ray films does not relate to him and even he admits about the false statement being made before the police that he was a student and later stated that he was an employee. It is his further submission that since the petitioner sustained only simple fracture to his right leg, there is no need to enhance the compensation and prays to dismiss the appeal.

11. Now the short question that arises for consideration is, whether the petitioner is entitled to any enhancement of compensation?

12. Perused the order under challenge and the oral and documentary evidence let in by the petitioner. A perusal of the order would reflect

that the petitioner admitted that Ex.A.10 X-ray films does not relate to him and also admitted that he has given a false statement to the police that he was a student and further admitted that certain medical bills relate to the period prior to the date of accident. The Tribunal has granted Rs.20,000/- observing that the fracture was well united and also granted Rs.5,000/- towards pain and suffering, Rs.5,000/- towards extra nourishment and Rs.19,200/- towards medical expenses covered by Ex.A.14. The amounts awarded by the Tribunal appear to be reasonable. Under these circumstances, more particularly, since the petitioner approached the Tribunal with certain bills and X-rays, which do not belong to him at all, absolutely there is no merit in the instant appeal.

13. In the result, the appeal is dismissed confirming the award and decree dated 05.11.2004 passed by the Tribunal in O.P.No.1249 of 2001. There shall be no order as to costs.

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

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**A. SHANKAR NARAYANA, J**

09<sup>th</sup> February, 2015

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