

HON'BLE MRS JUSTICE ANIS

CMA No. 2878 of 2004

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JUDGMENT:

This CMA is filed against the order, dated 24.02.2004, passed in MVOP No.298 of 2000 by the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Chittoor, at Tirupati.

2. The parties are hereinafter referred to as they were arrayed before the Tribunal for the sake of convenience.

3. The petitioner filed MVOP No. 298 of 2000, under Section 166(1)(a) of the Motor Vehicles Act, 1988, claiming compensation of Rs.50,000/- for the injuries sustained by him in the motor vehicle accident. The case of the petitioner, in brief, is that on 18.11.1998 at about 1.00 PM, he along with his co-employees was traveling in the standard Van of the third respondent bearing registration No.APM 6811 from Tirupati to Pakala and when the said Van reached Chittoor – Tirupati main road near Mungilipattu village, the third respondent drove the Van in a rash and negligent manner and dashed against the bus bearing registration No.AP 03 U 2167 of the first respondent, which was coming in opposite direction in a rash and negligent manner at high speed, due to the impact, there was a head on collision, in which the petitioner sustained injuries and, therefore, the respondents are jointly and severally liable to pay the compensation.

4. The respondents 1 and 3 remained *ex parte*. The respondents 2 and 4-Insurance Companies filed counters.

5. The second respondent-Insurance Company contended that the driver of the first respondent drove the vehicle in a care and cautious manner, whereas the driver of the third respondent drove the Van in a rash and negligent manner at high speed, as such the driver of the third respondent and the third respondent-owner are liable to pay compensation and put the petitioner to prove that he suffered permanent disability and spent huge amount.

6. The brief averments made in the counter filed by the fourth respondent-Insurance Company are as follows. The petitioner has to prove his age, income and permanent disability and stated that the driver of the third respondent drove the vehicle with care and caution, on the other hand, the driver of the first respondent drove the vehicle in a rash and negligent manner, due to which the accused was occurred and, therefore, they are not liable to pay any compensation and prayed the Court to dismiss the petition.

7. Basing on the above pleadings, the Tribunal framed the following issues.

“1. Whether the drivers of Van and Bus bearing Nos.AP M 6811 and AP 03 U 2167 respectively drove the same in a rash and negligent manner and caused the accident, in which the petitioner sustained injuries?

2. Whether the petitioner is entitled for compensation? If so, to what amount and from whom?

3. To what relief?”

8. During enquiry, the first petitioner, besides examining himself as PW.1, has examined Dr. A. Sudhakar Reddy as PW.2 and marked Exs.A1 to A4. On behalf of the respondents, no witnesses were examined and no documents were filed.

9. Considering the oral and documentary evidence on record, the Tribunal held that the accident was caused due to rash and negligent driving of both the drivers of the first respondent as well as the third respondent and negligence is apportioned at the ratio of 50 : 50. The Tribunal also, after considering the evidence of PWs.1 and 2, held that the petitioner received only three simple injuries and, accordingly, granted a sum of Rs.1,000/- to each injury, totaling to Rs.3000/-. Aggrieved by the said award passed by the Tribunal, the petitioner filed the present appeal.

10. Learned counsel for the petitioner-claimant contended that the Tribunal has not granted any amount towards medical expenses and further contended that though the petitioner suffered disability the Tribunal has not granted any amount towards loss of future earnings and prayed the Court to enhance the compensation.

11. On the other hand, learned counsel for the Insurance Companies contended that the Tribunal, after considering the entire oral and documentary evidence, has granted a reasonable compensation as the petitioner suffered only three simple injuries, therefore, the findings of the Tribunal needs no interference.

12. The point that arises for consideration is whether the petitioner is entitled for enhancement of compensation?

13. A perusal of the record would show that as per the wound certificate-Ex.A2, the petitioner has suffered only two lacerated injuries on the left forehead and left forearm and one contusion over the left shoulder and all the three injuries are simple in nature. However, the Tribunal did not accept the evidence of PW.2 with regard to permanent disability since he admitted in his evidence that he should not give any specific reason as to why the petitioner is suffering from headache and giddiness. Considering the evidence of PWs.1 and 2, the Tribunal awarded Rs.3,000/- for the simple injuries sustained by the petitioner. Learned counsel for the petitioner submitted that even for the simple injuries, the petitioner must have spent some amount, therefore, at least the amount spent towards medical expenses may be granted.

14. Having regard to the facts and circumstances of the case, I deem it appropriate to grant an amount of Rs.3,000/- towards medical expenses in addition to the amount of Rs.3000/- already granted by the Tribunal.

15. Accordingly, the CMA is partly allowed enhancing the compensation from Rs.3,000/- to Rs.6,000/-. The enhanced amount shall carry interest at 9% p.a., from the date of petition till realization. There shall be no order as to costs.

16. As a sequel thereto, the miscellaneous applications, if any, pending in this CMA shall stand closed.

ANIS, J

Date: 22.06.2015.

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