

HON'BLE SMT JUSTICE ANIS
M.A.C.M.A.No.1311 of 2005

J U D G M E N T:

This appeal is filed by the appellant/petitioner under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the order and decree dated 01.04.2005, passed by the Chairman, Motor Accident Claims Tribunal-cum-V Additional District Judge, (Fast Track Court), Ranga Reddy District at L.B.Nagar, in O.P.No.465 of 2003, awarding compensation of Rs.28,000/-.

2. The appellant/petitioner filed the above Original Petition under Section 166 of the Act claiming compensation of Rs.1,50,000/- on account of the injuries sustained by him in a motor vehicle accident that occurred on 04.06.2003.

3. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the Original Petition.

4. The brief averments made in the petition are that on 04.06.2003 at about 07:15 a.m, when the petitioner was going on a scooter bearing No.AP.9L.5992 and when he reached near IIIT, Gachibowli, one lorry bearing No.AP.12U.4671, driven by its driver in rash and negligent manner, dashed the scooter due to which the petitioner fell down, received grievous injuries and became unconscious. The petitioner received grievous injuries all over his body and he was shifted to Gandhi Hospital, Secunderabad, where he was treated as inpatient for one day and later, shifted to Premier Hospital, treated for five days as inpatient and thereafter, he was discharged. Due to the injuries, he was unable to do any work and he is suffering with headache and other pains. The first respondent being the owner and second respondent being the insurer are jointly liable to pay compensation to the petitioner.

5. Before the Tribunal, the first respondent remained *ex parte*.

6. The brief averments made in the counter filed by the second respondent are as follows:

The second respondent put the petitioner to prove the manner of accident, his age and income and denied about the criminal case filed and finally stated that the compensation claimed by the petitioner is high and excessive, and prayed the Court to dismiss the petition.

7. Basing on the above pleadings, the Tribunal framed three issues and to substantiate his claim, the petitioner got examined himself as PW.1 and got marked Exs.A.1 to A.9 on his behalf. On behalf of the contesting respondent, no oral evidence was adduced, but got marked Ex.B1 by consent.

8. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.AP.12U.4671, due to which the petitioner sustained injuries; that Ex.B1 is in force at the time of accident and therefore, both the respondents are jointly liable to pay compensation, and awarded compensation of Rs.28,000/- along with interest at 9% p.a. to the petitioner against both the respondents.

9. Being not satisfied by the award passed by the Tribunal, the petitioner preferred the present appeal.

10. The learned counsel appearing for the appellant/petitioner argued that though the petitioner sustained grievous injuries, the Tribunal awarded meagre compensation and the Tribunal also awarded less compensation towards the loss of earnings, extra nourishment and transportation charges and therefore, prayed the Court to allow the appeal by enhancing the compensation.

11. Sri Kota Subba Rao, learned counsel for respondent No.2 contended that the Tribunal awarded just and reasonable compensation to the petitioner in the absence of evidence of the doctor, and therefore

the finding of the Tribunal needs no interference and prayed the Court to dismiss the appeal.

12. Having regard to the submissions made by the learned counsel appearing for both the parties, the points which are to be decided in this appeal are as follows:

1. Whether the compensation awarded by the Tribunal is just and reasonable?
2. Whether the appellant/petitioner is entitled for enhancement of compensation as prayed for?

13. **POINTS:** A perusal of the oral evidence of PW.1 coupled with Ex.A1-certified copy of the First Information and Ex.A4-certified copy of the charge sheet, it is proved that the accident occurred on 04.06.2003 was due to rash and negligent driving of the driver of the lorry bearing No.AP.12U.4671, due to which the petitioner received injuries. This finding of the Tribunal regarding the manner of accident needs no interference.

14. The learned counsel for the appellant/petitioner argued that initially, the petitioner was admitted in Gandhi Hospital, Secunderabad, where he took treatment from 4.6.2002 to 5.6.2002 and thereafter, he was admitted in Premier Hospital, where he took treatment for about four days. A perusal of the award passed by the Tribunal shows that the Tribunal after considering the evidence of PW.1, awarded Rs.10,000/- towards grievous injuries and Rs.10,000/- towards three lacerated injuries, which is just and reasonable and therefore, the finding of the Tribunal needs no interference.

15. The other contention of the learned counsel for the appellant/petitioner is that the petitioner has to prove that he took treatment in Hospital after discharge from Gandhi Hospital, Secunderabad, but he failed to do so. From the perusal of the order passed by the Tribunal, it is clear that the doctor, who treated the petitioner in the hospital, was not

examined, and therefore the Tribunal after considering Exs.A6 to A9 awarded Rs.3,300/- towards medical expenses, which is just and reasonable and therefore, the finding of the Tribunal needs no interference.

16. The other main contention of the learned counsel for the appellant/petitioner is that due to the injuries sustained, he suffered head ache and other body pains, and he was unable to do any work. It is stated by the petitioner that he was working as a teacher in Nagarjuna High School and paid salary of Rs.4,000/- p.m at the time of accident. This fact was not disputed by the second respondent. Therefore, considering the evidence of PW.1, an amount of Rs.1,000/- is awarded in addition to Rs.3,000/- already awarded towards loss of earnings totalling to Rs.4,000/-, and keeping in view all the injuries received by the petitioner, an amount of Rs.800/- is awarded in addition to Rs.1,700/- already awarded towards extra nourishment totalling to Rs.2,500/- and further, an amount of Rs.1,200/- is awarded towards transportation and other charges.

17. Thus, in view of the above discussion, the appeal is partly allowed enhancing the compensation awarded by the Tribunal to the appellant/petitioner from Rs.28,000/- to Rs.31,000/- along with interest at 7.5% p.a on the enhanced amount from the date of appeal till the date of realisation. No order as to costs.

18. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

ANIS, J

Date: 14.08.2015
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