

HON'BLE SRI JUSTICE A. SHANKAR

NARAYANA

C.M.A. No.2738 OF 2004

JUDGMENT:

Dissatisfied with the amount of Rs.3,500/- (Rupees three thousand and five hundred) granted by the learned Chairman, Motor Accidents Claims Tribunal – cum – Additional District Judge, Vizianagaram, in O.P. No.546 of 1997, by order and decree, dated 24-12-1998, as against claim of Rs.1,00,000/- (Rupees one lakh) laid under Section 166 of Motor Vehicles Act, 1988(for short 'the Act'), the petitioner preferred instant appeal seeking enhancement of compensation.

2. The appellant herein is petitioner in the O.P. before the Tribunal, while respondent Nos.1 to 3, who are driver, owner and insurer of Jeep bearing registration No.AP 35T 1917, respectively, are respondent Nos.1 to 3, respectively.

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

4. The fact-situation occurring in the instant case is that on 27-04-1997, the petitioner was proceeding on a T.V.S. Moped along with two others on the left side of the road, and when he reached near Sativada village at about 12.00 noon, driver of the Jeep bearing registration No.AP 35T 1917 drove it in a rash and negligent manner and hit the moped, due to which, the petitioner received injuries and he was shifted to Government Hospital, Vizianagaram. Hence, the petitioner laid the claim petition seeking Rs.1,00,000/- as compensation against respondent Nos.1 to 3

being driver, owner and insurer of the jeep stating that all of them are jointly and severally liable to pay the compensation.

5. Respondent No.3 – Insurance Company filed counter, which was adopted by respondent Nos.1 and 2, opposing the claim. The respondents denied taking place of the accident, and attributed rash and negligent driving to the petitioner himself and thereby sought to dismiss the claim petition.

6. Based on the pleadings, the Tribunal framed three issues about the responsibility for the accident.

7. During inquiry before the Tribunal, the petitioner alone examined himself as PW.1, and marked Exs.A-1 to A-4. On behalf of the respondents, neither oral nor documentary evidence was adduced.

8. The Tribunal, on appraisal of evidence on record, tendered the finding on issue No.1, holding that due to rash and negligent driving of the driver of the jeep, the accident has occurred, causing injuries to the petitioner. On issue No.2, having found from Ex.A-2 - wound certificate, that the petitioner sustained only simple injuries and there was no permanent disability at all, granted Rs.2,000/- towards simple injuries; Rs.1,000/- towards pain and suffering; and Rs.500/- towards transport charges and extra nourishment and, thus, a total sum of Rs.3,500/- was granted as compensation with interest at 12% per annum.

9. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal has not properly appreciated the evidence on record, though, the petitioner

was treated as in-patient for two days and, therefore, sought to grant the balance amount.

10. Heard Sri Venkateshwara Rao Gudipati, learned counsel for the appellant, and Smt. M. Bhaskara lakshmi, learned counsel for respondent No.3 – Insurance Company. The appeal against respondent Nos.1 and 2 was dismissed, by orders, dated 16-09-2011 and 10-11-2003, respectively, but the same makes no difference in deciding the controversy, since they did not actively participate in the proceedings before the Tribunal.

11. Perused the order and material on record. Ex.A-2 - wound certificate issued by the Civil Assistant Surgeon reflects the nature of injuries as 'simple'. Certainly, no partial permanent disability can be claimed by the petitioner. Further, the Tribunal has granted Rs.2,000/- towards simple injuries, which appears to be on lower side and, therefore, the same is enhanced to Rs.8,000/-, since the petitioner was treated as in-patient for two days in Government Hospital which is not in dispute. But, the Tribunal granted Rs.1,000/- towards pain and suffering, and the same is enhanced to Rs.3,000/-, and so also Rs.1,000/- from Rs.500/- towards transport and extra nourishment and, thus, the petitioner is totally entitled to Rs.12,000/- as compensation as against Rs.3,500/- granted by the Tribunal.

13. Concerning the rate of interest, the Tribunal granted the same at 12% per annum, but the same is reduced to 7.5% per annum as per the decision of the Hon'ble Supreme Court in

Rajesh and others v. Rajbir Singh and others^[1].

14. In the result, appeal is allowed in part and the order and decree, dated 24-12-1998, in O.P. No.546 of 1997, passed by the Tribunal are modified, enhancing the compensation to Rs.12,000/- (Rupees twelve thousand) from Rs.3,500/- (Rupees three thousand and five hundred) and reducing the rate of interest from 12% to 7.5% per annum thereon from the date of petition till realization. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

June 19, 2015.

Mgr

[\[1\]](#). 2013 ACJ 1403