

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. No.3529 OF 2005

JUDGMENT:

The United India Insurance Company Limited, Mancherial, preferred the instant appeal aggrieved of the order and decree, dated 23-04-2003, passed by the learned Chairman, Motor Accidents Claims Tribunal - cum - Additional District Judge, Adilabad, in O.P. No.408 of 2000, whereby and whereunder, the Tribunal has granted a total sum of Rs.1,44,000/- towards compensation as against the claim of Rs.2,00,000/-, laid under Section 166(1)(a) of the Motor Vehicles Act, 1988 (for short 'the Act'), contending in the grounds of appeal that the Tribunal ought not to have granted the amount of Rs.90,000/- towards injuries 1 to 3, which are grievous in nature.

2 . The appellant herein - United India Insurance Company Limited, Mancherial, is respondent No.2 in the O.P. before the Tribunal while respondent No.1 is the petitioner (claimant) and respondent No.2, who is owner of the lorry bearing No.AP-16-T-3770 that involved in the accident and insured with the appellant herein, is respondent No.1.

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

4. The manner in which the accident has taken place is not in dispute. There is no dispute as to the finding recorded by the Tribunal on issue No.1. On issue No.2, the finding recorded by the Tribunal,

based on the evidence of medical records, Exs.A-4 to A-7, A-9, A-10 and A-11, is also not in dispute.

5. The only controversy herein is, with regard to the amount of Rs.90,000/- granted by the Tribunal towards grievous injuries sustained by the petitioner which are fracture of left leg, comminuted fracture of right femur, traumatic amputation of left ring finger, as narrated in the order under challenge which is unnecessary to repeat again.

6 . Heard Sri Vutla Srinivasa Rao, learned counsel for respondent No.2 - Insurance Company (appellant), and Sri S. Chandra Sekhar, learned counsel for the petitioner (claimant).

7. As seen from the cause title shown in the grounds of appeal, respondent No.1 (respondent No.2 herein), who is owner of the lorry that involved in the accident, is shown as not a necessary party.

8. When the nature of injuries, which are grievous injuries, is seen, one of them is amputation of left ring finger. Since the petitioner was 20 years old at the relevant time, certainly, amputation of left ring accounts for deformity forever. It was amputated at his prime youth affecting his future prospects including marriage.

The Tribunal has not definitely indicated that at Rs.30,000/- per injury, a sum of Rs.90,000/- was granted towards three grievous injuries. In such an event, when kept in view, even the second injury, which is comminuted fracture of right femur, certainly, the amount of Rs.90,000/- granted by the Tribunal towards grievous injuries, cannot be faulted with. So far as the other three injuries are concerned, the Tribunal has granted Rs.15,000/-, which appears to be slightly more, however, the same can be ignored, considering the sufferance the petitioner has undergone due to the other injuries. Further, the

amounts of Rs.9,000/- granted towards loss of earnings, Rs.10,000/- towards medical expenses, Rs.10,000/- towards pain and suffering and Rs.10,000/- towards extra-nourishment are just and reasonable, as such, they are confirmed. In fact, the Tribunal has not granted any amount towards attendant and transport charges.

9. Thus, viewed from any angle, the amount of Rs.1,44,000/- granted by the Tribunal is just and adequate keeping in view, the nature of injuries sustained by the petitioner, as such, the same is confirmed. However, the rate of interest granted by the Tribunal at 9% per annum is reduced to 7.5% per annum, from the date of petition till realisation, in view of the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others.**

10. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the award under challenge passed by the Tribunal to the extent of reducing the rate of interest, as indicated above.

There shall be no order as to costs.

11. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal stand disposed of.

A. SHANKAR NARAYANA, J

March 24, 2015.

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