

HON'BLE SMT JUSTICE ANIS

M.A.C.M.A.No.1170 OF 2005

J U D G M E N T:

This appeal is filed by the appellant/third respondent under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the order and decree dated 06.01.2005, passed by the Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Khammam, in O.P.No.444 of 1999, awarding compensation of Rs.25,000/-.

2. The respondent No.1/petitioner filed the above Original Petition under Section 166 of the Act claiming compensation of Rs.1,50,000/- on account of the injuries received by him in a motor vehicle accident that occurred on 02.10.1998.

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 02.10.1998 at about 5:00 p.m, the petitioner along with his friend Issack carried a rice bag and boarded a Tanker bearing No.AP.16.W.4104 at Aswapuram to go to Sarapaka village, and when the tanker reached Sitharampuram village, first respondent drove the vehicle in a rash and negligent manner and lost control on the vehicle, as a result, the tanker turned turtle and petitioner sustained bleeding injuries. Immediately, the petitioner was shifted to Hospital of one Dr. Krishna Prasad by ambulance. The petitioner sustained fracture to his right leg, steels rods were inserted, skin grafting was made and petitioner spent an amount of Rs.25,000/- towards medical expenses. Petitioner stated that he was hale and healthy and used to earn an amount of Rs.5,500/- p.m at the time of accident. Due to the injury, he suffered mental agony and pain and he is unable to attend his normal duties, therefore prayed the Court to grant compensation of Rs.1,50,000/-.

5. Before the Tribunal, respondent Nos.2 & 3/respondent Nos.1 & 2 remained *ex parte*.

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

The third respondent put the petitioner to prove the manner of accident, age, income, injuries sustained and treatment taken by the petitioner and further stated that the owner of the vehicle has not reported about the accident. It is also specifically averred that the vehicle involved in the accident was a tanker as such petitioner is not entitled to compensation and finally prayed the Court to dismiss the petition.

7. Basing on the above pleadings, the Tribunal framed three issues and to substantiate the claim, the petitioner got examined PW.1 and got marked Exs.A.1 to A.6 on his behalf. On behalf of the contesting respondent, RW.1 was examined and Ex.B1 got marked.

8. After considering the oral and documentary evidence available on record, the Tribunal held that the first respondent drove the vehicle in a rash and negligent manner and caused the accident in which the petitioner sustained injuries. Further, The Tribunal after considering the evidence of PW.1 & RW.1, granted an amount of Rs.25,000/- as compensation with interest at 9% p.a and also held that the third respondent shall deposit the amount of compensation initially and later recover the same from the second respondent.

9. Being aggrieved by the award passed by the Tribunal, the third respondent preferred the present appeal.

10. The learned counsel appearing for the appellant/third respondent argued that the Tribunal awarded compensation without going through the record and specifically contended that the rate of interest of 9% p.a awarded by the Tribunal is high and excessive and prayed the Court to reduce the interest to 7.5% p.a.

11. On the other hand, the learned counsel for the respondent No.1 argued that after considering the evidence on record, the Tribunal awarded just and reasonable compensation and the said finding of the Tribunal needs no interference and further conceded to reduce the rate of interest from 9% to 7.5%.

12. None appeared, to argue on behalf of respondent Nos.2 & 3 herein.

13. 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 appellant/third respondent is liable to pay compensation to respondent No.1/petitioner or not?
2. Whether the appellant/third respondent is entitled to reduce the award passed by the Tribunal or not?
3. Whether the appellant/third respondent is entitled to reduce the rate of interest awarded by the Tribunal or not?

14. **P O I N T S:** A perusal of the evidence clearly established that in the accident, the petitioner sustained injuries due to rash and negligent driving of the first respondent. The Tribunal rightly awarded compensation of Rs.25,000/- and the said finding of the Tribunal needs no interference as the Tribunal awarded just and reasonable compensation.

15. Coming to the rate of interest awarded by the Tribunal is concerned, in ***Sanobanu Nazirbhai Mirza and others v. Ahmedabad Municipal Transport Service***, the Hon'ble Apex Court granted interest @ 7.5% p.a. In ***Rebeka Minz and others v. Divisional Manager, United India Limited Insurance Company Limited and another***, the Hon'ble Apex Court awarded interest at 7% p.a. Thus, in view of the different rate of interests granted by the Apex Court in the judgments cited above, I am of the considered view that the rate of interest granted by the Tribunal is excessive and therefore, it is a fit case to reduce the rate of interest from 9% to 7.5% p.a from the date of appeal till the date of realisation.

16. In the result, the Appeal is allowed in part, not interfering with the compensation awarded by the Tribunal, but reducing the rate of interest from 9% to 7.5% p.a from the date of appeal till the date of realisation. No order as to costs.

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

ANIS, J

Date: 13.11.2015

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