

**HON'BLE SRI JUSTICE A. SHANKAR**

**NARAYANA**

**M.A.C.M.A. No.3085 OF 2005**

**JUDGMENT:**

Dissatisfied with the award of Rs.10,900/- as compensation as against the claim of Rs.1,00,000/- laid by the petitioner under Section 166 (1)( a) of the Motor Vehicles Act,1988 (for short 'the Act') read with Rule 455 of Andhra Pradesh Motor Vehicles Rules, 1989 for the injuries sustained by him, by common order, dated 07-09-2004, in O.P. No.902 of 1999, on the file of the Chairman, Motor Accidents Claims Tribunal – cum – I Additional District Judge, Adilabad (for short 'the Tribunal'), the instant appeal is preferred by the petitioner – claimant seeking enhancement of compensation.

2. The appellant herein is the claimant in the O.P. before the Tribunal, while respondent Nos.1 to 3 herein, who are driver, owner and insurer of Jeep bearing registration No.MH 34 6609, respectively, are Respondent Nos.1 to 3 as such.

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 facts, in brief, are that on 18-08-1999, the claimant along with others was travelling in a Jeep bearing registration No.MH 34 6609 from Mancherla to Kasipet and at about 7.30 p.m., when the jeep reached outskirts of Pulimadugu village, since the driver of said jeep drove it in a rash and negligent manner and lost control, it hit a cement board available by the side of road and thereby it turned upside down, causing multiple injuries to the

claimant and others. The claimant was immediately shifted to Mancherial Hospital for treatment. Contending that the claimant was earning around Rs.2,500/- to Rs.3,000/- per month by doing a kirana business and on account of accident, he suffered huge loss, sought Rs.1,00,000/- as compensation against respondent Nos.1 to 3, who are driver, owner and insurer of the jeep, respectively.

5. Though respondent Nos.1 and 2, driver and owner of the jeep made their appearance through their counsel, did not choose to file counter before the Tribunal.

6. Respondent No.3 – Insurance Company, filed counter opposing the claim.

7. The Tribunal has framed three issues about the responsibility for the accident.

8. Since the claim in the present appeal and the claims in O.P. Nos.886, 887 and 888 of 1999 arise out of one and the same accident, the Tribunal, on the memo filed by counsel for respective claimants, taken up the present claim petition (O.P. No.902 of 1999) along with other claim petitions i.e., O.P. Nos.886, 887 and 888 of 1999 and conducted joint trial by recording common evidence in O.P. No.902 of 1999. During inquiry before the Tribunal, the claimant herein examined as PW.1, while the other claimants were examined as PWs.2 to 4, and marked Exs.A-1 to A-9. On behalf of the respondents, no witnesses were examined and no documents were filed.

9. The Tribunal on issue No.1 having appreciated the

evidence on record let in by the respective claimants, held that due to rash and negligent driving of the driver of the jeep, the accident had occurred. On issue No.2, basing on the evidence on record, both, oral and documentary, and the nature of injuries sustained by the claimant, granted a sum of Rs.10,000/- towards injury and a sum of Rs.900/- towards medical expenses, making a total sum of Rs.10,900/- as compensation with interest at 9% per annum thereon against respondent Nos.1 to 3 jointly and severally.

10. Dissatisfied with the award of the aforesaid compensation, the instant appeal is preferred by the claimant contending in the grounds that the Tribunal did not consider the evidence, both, oral and documentary let in by him, more particularly, Ex.A-2, injury certificate, which reflects that he sustained fracture of pelvic bone and other injuries, and that the claimant incurred huge amount towards medical expenses and, therefore, sought to grant balance amount.

11. Heard Sri S. Surender Reddy, learned counsel for the appellant – claimant, and Sri P. Chandra Reddy, learned counsel for respondent No.2 and Sri V. Sambasiva Rao, learned Standing Counsel for respondent No.3 – Insurance Company. Since the notice sent to the address of respondent No.1, driver of the jeep, as shown in O.P., returned un-served, the same was filed along with memo, which was treated as served by this Court, as per orders, dated 06-01-2012.

12. The submission of the learned counsel for the claimant is that the Tribunal has not considered Ex.A-2, injury certificate, properly, and had it been considered in right perspective, the

Tribunal would have granted more compensation, and that since the claimant sustained one fracture and two simple injuries, he is to entitled more compensation and, therefore, sought to grant balance amount. On the other hand, the submission of the learned counsel for respondent Nos.2 and 3 is that, the amount granted by the Tribunal is just, adequate and there is no need to interfere with the award passed by the Tribunal and, therefore, sought to dismiss the appeal.

13. Perused the order and the evidence on record. On perusal of the order, it is clear that the Tribunal having referred to Ex.A-2, injury certificate, showing that the claimant sustained fracture of pelvic bone apart from two other simple injuries, has not considered the same while granting the compensation. Therefore, when kept in view, Ex.A-2 and also keeping in view the sufferance he had undergone, the amount of Rs.10,000/- granted by the Tribunal is enhanced to Rs.25,000/- towards injuries and pain and suffering. The Tribunal granted a sum of Rs.900/- towards medical expenses and the same is confirmed as the claimant failed to produce any medical bills. The Tribunal has not granted any amount towards extra nourishment and, therefore, a sum of Rs.5,000/- is granted under the said head. When kept in view, the nature of injuries sustained by the claimant, he must not have attended to his regular work for certain period and, therefore, a sum of Rs.6,000/- is granted towards loss of temporary earnings @ Rs.2,000/- per month for three months. Towards attendant charges and transport charges, a sum of Rs.3,000/- is granted. Thus, in all, the claimant is entitled to Rs.39,900/-.

14. Concerning the rate of interest, Tribunal granted it at

9% per annum and the same is confirmed on the amount awarded by the Tribunal. However, on the enhanced amount, interest at the rate of 7.5% per annum is granted in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**<sup>[1]</sup>.

15. In the result, the appeal is allowed in part, and the order and decree, dated 07-09-2004, in O.P. No.902 of 1999, passed by the Tribunal, are modified enhancing the compensation to Rs.39,900/- (Rupees thirty nine thousand and nine hundred) from Rs.10,900/- (Rupees ten thousand and nine hundred) with interest at the rate of 9% per annum on the amount of Rs.10,900/- granted by the Tribunal and at the rate of 7.5% per annum on the enhanced amount of Rs.29,000/- (Rupees twenty nine thousand) from the date of petition till realization. There shall be no order as to costs.

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

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**A. SHANKAR NARAYANA, J**

**December 21, 2015.**  
Mgr

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<sup>[1]</sup> 2013ACJ1403 = 2013(4)ALT35