

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.1698 of 2009

JUDGMENT:

The present appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is preferred seeking enhancement, having got dissatisfied with the award and decree, dated 25.06.2005, in O.P.No.2152 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional Metropolitan Sessions Judge-cum-XV Additional Chief Judge, Hyderabad (for short, 'the Tribunal'), whereby and whereunder, a sum of Rs.67,000/- was granted as compensation as against the claim of Rs.1,50,000/- laid under Section 166 of the Act.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2 herein, who are the owner and insurer of the offending vehicle, respectively, are respondent Nos.1 and 2, respectively, in the original petition.

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

4. Since the fact-situation is not in dispute, there is no need to advert to the details thereof.

5. Heard Sri V.Atchuta Ram, learned counsel for the appellant, and Sri K.Sitaram, learned counsel for respondent No.2 –

Insurance Company. Though, service was completed on respondent No.1, none appears for him.

6. The Tribunal has granted Rs.6,000/- towards medical expenses, treatment, extra-nourishment, transport, attendant charges and other incidental charges, Rs.10,000/- towards pain and suffering, Rs.4,000/- towards loss of temporary earnings and Rs.46,800/- towards loss of future earning capacity by applying the structural formula taking the monthly income at Rs.2,000/- and the multiplier factor '13' considering the age of the petitioner as 45 years and disability at 15% basing on the evidence of P.W.2.

7. The injuries sustained by the petitioner are (1) laceration cut over the right leg, (2) deformity of right leg (3) swelling, tenderness at right wrist and (4) pain and tenderness of right forearm, as per Ex.A4- wound certificate obtained from Osmania General Hospital. Ex.A5- discharge summary shows that the petitioner received Grade II compound comminuted fracture of both bones of right and left legs and colliers fracture of right wrist and even steel rod was inserted to the left leg and he was treated from 26.07.2003 to 06.08.2003. It is no doubt true that when the nature of injuries sustained by the petitioner are taken into consideration, certainly, he would be entitled to more than Rs.67,000/- determined by the Tribunal. However, when multiplier factor '14' is taken, which is applicable for the age group between 41 and 45, instead of '13' applied by the Tribunal, and the annual income at

Rs.30,000/- @ Rs.2,500/- per month, instead of Rs.24,000/- per annum taken by the Tribunal, and the disability at 15%, which was rightly observed by the Tribunal, the loss of future earning capacity would work out to Rs.63,000/- (30000 x 15% x 14). This apart, when kept in view, the fractures sustained by the petitioner to both bones of his right and left legs, the amount of Rs.10,000/- granted towards pain and suffering is on lower side, and, therefore, the same is enhanced to Rs.25,000/-. Towards extra-nourishment, medical expenses etc., the Tribunal granted an amount of Rs.6,000/-, which appears to be on lower side, and, hence, a sum of Rs.10,000/- is granted towards extra-nourishment alone. Further, though, there are no medical bills forthcoming, still, the petitioner is granted an amount of Rs.5,000/- towards medical expenses, Rs.4,000/- towards attendant charges and Rs.2,000/- towards transport charges.

8. Thus, the petitioner is entitled to a total compensation of Rs.99,000/- as against Rs.67,000/- granted by the Tribunal and the same is, accordingly, granted.

9. So far as the rate of interest is concerned, the Tribunal granted the same at 9% per annum and the same is maintained on the compensation of Rs.67,000/- granted by the Tribunal. However, on the enhanced amount, interest at 7.5% per annum is granted from the date of petition till realisation in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

¹ 2013 ACJ 1403

10. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation with interest, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

11. Miscellaneous petitions, if any pending in the instant appeal, shall stand closed.

JUSTICE A.SHANKAR NARAYANA

22.09.2016
v v

