

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.1141 OF 2009

JUDGMENT:

Not satisfied with the award of Rs.80,181/- as compensation by order and decree, dated 28.11.2007, passed in O.P.No.424 of 2004 on the file of Chairman, Motor Accidents Claims Tribunal – cum – District Judge, Nizamabad, as against the claim of Rs.4,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988, for the injuries sustained by the petitioner in the said O.P., the instant appeal is preferred seeking enhancement of compensation.

2. The appellant is the petitioner, whereas respondent Nos.1 and 2, are respondent Nos.1 and 2 in the O.P. before the Tribunal.

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 12.09.2002, while the petitioner was travelling in a jeep bearing registration No.MVV-9011 from Mosra towards Nizamabad and when the jeep reached Mallaram Gandhi Forest limits on the road leading from Nizamabad to Bansiwada, an R.T.C. bus bearing registration No.AP-10-Z-2538 coming in opposite

direction driven by its driver at high speed in a rash and negligent manner hit the jeep, due to which impact, the petitioner sustained multiple fractures to skull, right leg and ribs and other multiple and grievous injuries all over the body. The petitioner, claiming that she took treatment in various hospitals and spent Rs.1,50,000/-, and was aged 40 years on the date of accident earning Rs.15,000/- per month by doing Tailoring, Milk business and Agriculture, sought a sum of Rs.4,00,000/- as compensation from the respondent - Corporation.

5. Before the Tribunal, respondents filed counter denying the averments made in the petition and contended that the accident occurred due to the negligence of the driver of the jeep and that the jeep was overloaded with passengers.

6. Basing on the said pleadings, the Tribunal has framed three issues about the responsibility for the accident.

7. During enquiry, the petitioner examined herself as PW.1 besides examining Dr. Sanjeev Singh Yadav as PW.2 and marked Exs.A1 to A9. On behalf of the respondents, driver of the bus was examined as RW.1, but no documents were filed.

8. The Tribunal, on appraisal of evidence on record,

held issue No.1 in favour of the petitioner. On issue No.2, having considered the evidence of PW.1 and PW.2, who treated the petitioner in a private nursing home at Nizamabad and spoken about the injuries sustained by the petitioner, granted a sum of Rs.50,000/- for the grievous injury and Rs.2,000/- to each of the two simple injuries sustained by the petitioner, besides granting Rs.26,181/-, which amount said to have been incurred by the petitioner towards medical expenses, thus, making a total of Rs.80,181/- with interest at 7.5% 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 and, in fact, the petitioner was treated as inpatient for a period of two months and spent Rs.1,50,000/- towards medical expenses and the Tribunal has not assigned any reason for not appreciating the evidence of PW.2, who gave opinion that the petitioner will encounter serious health problems in future, and thus, sought to grant the balance amount with interest at the rate of 18% per annum.

10. Heard Sri Lakkadi Dayakar Reddy, learned counsel for the appellant, and Sri N. Vasudeva Reddy, learned Standing Counsel for the respondent-Corporation.

11. The dispute is with regard to the quantum of

compensation awarded by the Tribunal alone. The rest of the fact situation is not in dispute.

12. Learned counsel for the appellant would submit that the appellant – petitioner requires yet another operation and she has to incur certain amount, and the amount granted by the Tribunal towards medical expenses is also inadequate and thus, seeks to grant the balance amount.

13. A perusal of the evidence of PW.2 would show that the petitioner sustained lacerated wound on the frontal parietal region of head, haemorrhage contusion of right temporal and left occipital temporal region and fracture of left temporal area with pneumocephalus. The first and second injuries were shown as simple injuries, whereas the third injury was shown as grievous injury. His evidence also shows that, as per C.T. Scan, the petitioner sustained fracture on head and there is blood clot in the brain and that there is possibility of epilepsy occurring in the long term and the petitioner cannot concentrate on any work and she may get attack on brain. Though, PWs.1 and 2 were subjected to cross examination, nothing useful is brought out by the respondent - Corporation.

14. It is no doubt true that PW.2 has stated that there was clot in the brain of the petitioner, but he has not stated anything as to what further course is to be resorted

to. Being a Civil Assistant surgeon, he was under obligation to speak as to how the clot can be removed i.e., by administering medicines or by any surgical intervention. Even overlooking the vacuum he created, still, the amount of Rs.50,000/- granted by the Tribunal towards the grievous injury appears to be on lower side when, kept in view, the injuries sustained by the petitioner, atleast for certain period immediately after taking place of the accident. Therefore, the said amount is enhanced to Rs.1,00,000/- as against Rs.50,000/- granted by the Tribunal. Further, a sum of Rs.3,000/- is granted to each of the two simple injuries as against Rs.2,000/- each granted by the Tribunal. The sum of Rs.26,181/- granted by the Tribunal towards medical expenses is maintained as it is born out by the contents in Ex.A5. Further, the Tribunal, since, has not granted any amount towards pain and suffering, extra nourishment and attendant charges, a sum of Rs.20,000/- would be reasonable and thus, the said amount is granted. Thus, the petitioner is granted a total sum of Rs.1,52,181/- with interest at 7.5% per annum on the enhanced amount also from the date of petition till realisation, as the interest granted by the Tribunal at 7.5% per annum is on par with the decision rendered by the Honourable Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[1].

15. Accordingly, the appeal is allowed in part

enhancing the compensation from Rs.80,181/- to Rs.1,52,181/- with interest at 7.5% per annum. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. No costs.

A. SHANKAR

NARAYANA, J

July 29, 2016.
MD

[\[1\]](#) (2013) 9 SCC 54