

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

C.M.A.No.1279 of 2004

JUDGMENT:

The injured claimant, who was the Circle Inspector of Police as on the date of accident on 24.01.1998 while attending the crime meeting at the Office of the Superintendent of Police at District Head Quarters from Ootnoor to Adilabad in the Government Jeep in saying while driver of the jeep drove in rash and negligent manner resulting jeep turned turtle, he sustained injuries and was treated in NIMS Hospital, maintained the claim in O.P.No.1 of 2001 on the file of Motor Accidents Claims Tribunal-cum-District Judge, Karimnagar, for Rs.11,00,000/- against the Government officials respondent Nos.1 to 4 including the State represented by District Collector and on contest, the Tribunal awarded compensation of Rs.1,00,000/- vide award dated 09.01.2004 from the evidence of PW.1 injured, besides the two Doctors including PW.3 of NIMS Hospital, who treated him and Exs.A1 to A.7 and Exs.C1 to C3 and the driver of the jeep was examined as RW.1 and it is impugning the said quantum as utterly low, maintained the present appeal.

The contentions in the grounds of appeal vis-à-vis oral submissions of the learned counsel for the appellant/claimant, the Tribunal ought to have considered the disability and adverse impact on the carrier of the claimant injured including of inability to pursue in rest of life as effectively as was prior to the accident and should have allowed the claim as prayed for. There is additional evidence application in C.M.A.M.P.No.531 of 2015 which is so called disability certificate obtained dated 02.01.2015 of saying there is disability up to 62% and in fact there is an

endorsement that it is not valid for medico-legal purpose, but for social benefits under social welfare schemes, if any. Thereby there is nothing to receive as additional evidence for no bearing on the issue involved in the lis covered by the appeal. Thus, additional evidence application is dismissed.

Whereas it is the contention of the learned counsel for the respondent-Government through the Government Pleader for Arbitration that the award of the Tribunal holds good for this Court while sitting in the appeal there is nothing to interfere much less to enhance the compensation, thereby sought for dismissal of the appeal.

Heard and perused the material on record.

The NIMS hospital report dated 20.10.1998 shows including from the X-ray that there is normalcy in the intensity and alignment which is outcome of wedge compression of D-8 vertebra and also fracture of D-7 vertebra and there is old fracture of 9th right rib and there is swelling of soft tissues of left part vertebra. It is after treatment in NIMS as inpatient after sustaining injuries in the accident from the said report, same is enclosed. The evidence of PW.3-Doctor of the NIMS hospital shows that BP Sahu, Neurosurgeon shows he treated the petitioner for the fracture of D-8 vertebra and he was given option to undergo operation for quick recovery or for prolonged bed rest of above 4 weeks and he was opted for bed rest. He was on bed rest for 10 weeks and thereafter he was inpatient for 7 days and thereafter discharged and later on bed rest nearly for 10 weeks and some of the cash receipts shows related to him and issued by NIMS and

not of others and there is no future effect on his job, but for advice for sedentary job for 3 years and essentiality certificate issued by the hospital for his treatment. He deposed that no prolonged bed rest is required beyond what is stated above after one week treatment as inpatient for 10 weeks bed rest and he was reviewing his condition with improvement from his visiting the hospital and so far as future effect from the injury concerned, he will have backache and could not walk fast and bend easily and he can gradually improve by physiotherapy and physical exercise. This is the sum and substance of the evidence of the Doctor mainly who treated him. Though there is exaggeration in the evidence of PW.2 a private hospital Doctor, who was the person who treated the petitioner initially and during the relevant period to consider exaggeration. In fact the injury no doubt serious one with life long impact of suffering from back ache even later as can be seen from the said evidence, however the fact remains that he is in employment and there is no evidence to show he lost his job, any future promotion prospects including in the scale of pay. The Apex Court in **Rajkumar Vs. Ajaykumar**¹ held that from the disability of permanent nature, if any, if it effects his earnings and impact on the carrier, multiplier method to be adopted. Once there is no loss of job and prospects, only fixed sum to be awarded. The Tribunal in fact for the treatment including pain and sufferance and the injuries awarded a sum of Rs.1,00,000/- though it is claimed of there is a permanent disability showing no loss of prospects in job or earnings in job, at least back ache lifelong if at all to suffer and also no other disability including post retirement. Thereby no

¹ 2011 ACJ 1

multiplier method that can be adopted, it is just to enhance from Rs.1,00,000/- to Rs.1,50,000/- by reducing the rate of interest from 9% to 7.5% per annum.

Accordingly and in the result, the appeal is allowed in part by enhancing the compensation from Rs.1,00,000/- to Rs.1,50,000/- by reducing the rate of interest from 9% to 7.5% per annum from the date of petition till realization rest of the award holds good.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 02.08.2016
ska