

**HONOURABLE SRI JUSTICE A. SHANKAR
NARAYANA**

M.A. C.M.A. No.2303 OF 2005

JUDGMENT:

Dissatisfied with the award of Rs.15,750/- with interest at 9% per annum made by the order, dated 04.04.2005, in O.P. No.914 of 2000 by the learned Chairman, Motor Accidents Claims Tribunal - cum - V Additional District Judge, Nizamabad, as against the claim of Rs.1,50,000/- laid under Section 166(1)(a) of the Motor Vehicles Act, 1988 (for short, "the Act"), the instant Civil Miscellaneous Appeal is preferred by the petitioner.

2. There is no dispute in regard to the manner in which the accident had occurred and the injuries sustained by the petitioner in the said accident, which are fractures of both bones of left leg, as could be seen from the evidence, both, oral and documentary available, on record.

3. Heard Sri Sarala Mahender Reddy, learned counsel for the appellant - petitioner, and Sri Srinivas Rao Vutla, learned counsel for the insurance company viz., United India Insurance Company Limited, Nizamabad - respondent No.2 herein, who represented that he has filed *vakalat* today on behalf of the insurer;

4. Though, the appeal was dismissed against respondent No.1, owner of the auto-rickshaw bearing No.AP-25-T-7324 that involved in the accident, on 05.01.2012, since he had already suffered decree having remained *ex parte* before the Tribunal, his presence is not must to decide the request, in the instant appeal, for enhancement.

5. Perused the evidence on record and the order and decree under challenge.

6. The Tribunal declined to accept the disability of the petitioner spoken to by PW.2 at 30% by assigning cogent reasons observing that he was not competent to assess the disability, as even according to his evidence, a Medical Board has been in existence at the District Head Quarters, and, since in its opinion, Medical Board is competent to issue disability certificate by assessing the percentage of disability said to have sustained by PW.1. That finding recorded by the Tribunal is well reasoned and, therefore, the same is maintained.

7. Concerning the amounts awarded by the Tribunal, it can be said that the Tribunal has granted a meagre amount, just having been carried away by the statutory amounts mentioned in Schedule - II to Section 163-A of the Act, though, the claim is made under Section 166(1)(a) of the Act.

8. As per Ex.A-4, the petitioner has sustained fracture of both bones of left leg which constitutes one of the main limbs and it affected mobility of the petitioner temporarily, and, therefore, keeping in view the sufferance undergone by him, certainly, he is entitled to a sum of Rs.40,000/- including pain and suffering and the same is accordingly granted. The amount of Rs.2,000/- granted by the Tribunal towards extra-nourishment is enhanced to Rs.10,000/- keeping in view the nature of injuries sustained by him. The amount of Rs.3,750/-, at the rate of Rs.1,250/- for three (3) months, granted towards loss of notional income, is enhanced to Rs.7,500/- keeping in view, that it would not have been possible for the petitioner to attend normalcy within six (6) months. Towards travelling expenses and attendant charges, a sum of Rs.3,000/- is granted put together.

9. Thus, the petitioner is entitled to a total compensation of Rs.60,500/- (Rupees sixty thousand five hundred only) as against Rs.15,750/- granted by the Tribunal and the same is accordingly granted. The rate of interest at 9% per annum, on the compensation granted by the Tribunal, is maintained, however, on the enhanced compensation, it is fixed at 7.5% per annum 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].

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

A. SHANKAR NARAYANA, J

June 24, 2016.

PV

^[1] 2013ACJ1403 = 2013(4)ALT35