

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

**M.A.C.M.A. No.1414 of 2009**

**JUDGMENT :**

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is preferred by the appellant-petitioner, aggrieved by the common order and decree dated 30.10.2002, passed in O.P.No.833 of 2000 (along with O.P.Nos.834 and 835 of 2000), by the Chairman, Motor Accidents Claims Tribunal (Principal District Judge), Nalgonda District (for brevity "the Tribunal"), whereby and whereunder a sum of Rs.1,500/- was awarded towards compensation with interest @ 9% per annum, as against the claim of Rs.1,00,000/- made under Section 166 of the Act, for the injuries sustained by her in a motor accident that occurred on 07.07.2000, seeking enhancement of compensation.

2. The appellant herein is petitioner, respondent No.1 – owner of the offending Auto bearing No.AP 9V 8301 is respondent No.1, and respondent No.2 – United India Insurance Company Limited is respondent No.2, in O.P.No.833 of 2000.

3. For the sake of convenience, the parties are referred to as they are arrayed in O.P.No.833 of 2000 before the Tribunal.

4. The fact situation, the manner in which the accident had occurred and the responsibility for the accident are not in dispute.

5. The Tribunal, in fact, rendered a common order dated 30.10.2002, in O.P.Nos.833, 834 and 835 of 2000, by examining P.Ws.1 to 3, who are petitioners in the respective claim petitions,

and the documentary evidence under Exs.A.1 to A.13, marked on their behalf; and Ex.B.1 – Xerox copy of Insurance Policy, marked on behalf of the 2<sup>nd</sup> respondent – insurer.

6. Exs.A.9 to A.13 are Discharge Summary of Gandhi Hospital, MRI of Cervical Spine issued by Yashoda Hospital, Certified copy of Medical Certificate, X-Rays and bunch of Medical Bills, respectively, pertaining to the petitioner herein. On a direction given by this Court on 11.08.2016 to call for the connected records, the Tribunal has communicated that the relevant records were destroyed. Learned counsel for the petitioner also expressed his inability to file copies of Exs.A.9 to A.13.

7. It is to be noted that the Tribunal, while placing reliance on Ex.A.11, certified copy of Medical Certificate dated 07.07.2000, recorded a finding that the petitioner sustained a simple injury, but, somehow discarded the other documents under Exs.A.9 and A.10, and granted a sum of Rs.1,500/- towards compensation. Further, there is no reference of Exs.A.12 and A.13, which are X-Rays and bunch of Medical Bills, respectively, pertaining to the petitioner.

8. Be that as it may, even taking into consideration that Ex.A.11 shows simple injury, certainly, the petitioner is entitled to a sum of Rs.3,000/-, as against the sum of Rs.1,500/- granted by the Tribunal towards the injury. This apart, in view of the documentary evidence under Ex.A.10 – MRI of Cervical Spine issued by Yashoda Hospital, irrespective of the fact of non-examination of witnesses connected thereto, certainly, the petitioner is entitled to a sum of Rs.7,000/- towards pain and suffering. Though the Tribunal has not taken into consideration the bunch of medical bills under Ex.A.13, a sum of Rs.2,000/- is

granted towards medical expenses. Thus, the petitioner is entitled to a total compensation of Rs.12,000/- (Rs.3,000/- + Rs.7,000/- + Rs.2,000/- = Rs.12,000/-), as against the compensation of Rs.1,500/- granted by the Tribunal. So far as the rate of interest is concerned, while maintaining interest granted @ 9% per annum on Rs.1,500/- awarded by the Tribunal, interest @ 7.5% per annum is granted on the enhanced amount of Rs.10,500/-, in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**<sup>[1]</sup>.

9. Accordingly, the Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.1,500/- to Rs.12,000/- (Rupees twelve thousand only) with interest @ 7.5% per annum on the enhanced amount of Rs.10,500/- (Rupees ten thousand five hundred only), while maintaining interest @ 9% per annum granted by the Tribunal on the amount awarded by it, from the date of the petition till the date of realization. No order as to costs.

10. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

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JUSTICE A. SHANKAR NARAYANA

27.08.2016.

Msr

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