

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2378 OF 2009

JUDGMENT:

Seeking enhancement of compensation on the ground that the amount of Rs.2,000/- granted by the Tribunal despite leading evidence by examining the medical officer as PW.2 as against her claim of Rs.3,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), the present Civil Miscellaneous Appeal is preferred by the petitioner against the order and decree dated 18.11.2005 in O.P. No.2007 of 2002 passed by the learned Chairman, Motor Accidents Claims tribunal - cum - IV Additional District Judge (Fast Track Court) at Nizamabad.

2. The Tribunal, having framed three (3) issues and examining the oral evidence of PWs.1 and 2 and the documentary evidence under Exs.A-1 to A-5, Ex.C-1 and Ex.X-1 - Medico Legal Case extract issued by the Government Hospital, Nizamabad, and also Ex.B-1 - copy of the insurance policy of the auto-rickshaw that involved in the accident, rejecting the disability spoken to by PW.2 and the disability certificate under Ex.C-1, holding that it a fabricated document and even Ex.A-4, an attested copy of wound certificate, is also a fabricated document since description of injuries mentioned therein are not in accord with the injuries shown in Ex.X-1, held that the petitioner sustained simple injury and accordingly granted Rs.2,000/-.

3. Heard Sri Venkateshwar Varanasi, learned counsel for the petitioner (appellant).

4. Though, service of notice was completed on respondent No.2, insurer, none appears on its behalf.

5. Since it is endorsed at the cause title of the grounds of appeal itself that respondent No.1, owner of the auto-rickshaw, is not a necessary party to the appeal, no notice was taken against her.

6. It is suffice to say that the observations made by the Tribunal in paragraph Nos.18 and 19 of the order under challenge, certainly, disentitle the petitioner for grant of any enhancement of compensation, as sought by her in the instant appeal, for the reason that Ex.X-1, which is Medico Legal Case extract issued by the Government Hospital, Nizamabad, would give a definite indication that the petitioner sustained only a simple injury, but with the active connivance of Dr. L. Ramulu and Dr. V. Akhilesh, who is PW.2 herein, it appears that she managed to get the disability certificate under Ex.C-1, though, in fact, she has not sustained such disability. Therefore, except to the extent of enhancement of compensation by Rs.1,000/-, no further enhancement can be made.

7. Thus, the petitioner is entitled to a total compensation of Rs.3,000/- (Rupees three thousand only) as against Rs.2,000/- granted by the Tribunal and the same is accordingly granted maintaining the rate of interest granted by the Tribunal at 7.5% per annum on the

entire compensation, which includes enhanced compensation, since the same is in accordance with the rate of interest granted by the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

8. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the order under challenge and enhancing the compensation, as indicated above. There shall be no order as to costs.

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

October 26, 2016.

PV

A. SHANKAR NARAYANA, J

¹ 2013ACJ1403 = 2013(4)ALT35