

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1544 of 2009

JUDGMENT :

The instant 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 judgment and decree dated 30.11.2007, passed in M.V.O.P.No.575 of 2006 by the Chairman, Motor Accidents Claims Tribunal-cum-Special Judge for SC, ST (POA) Act-cum-VI Additional District and Sessions Judge, Kurnool District (for brevity "the Tribunal"), whereby and whereunder a sum of Rs.73,630/- was awarded towards compensation with interest @ 7.5% per annum, as against the claim of Rs.2,00,000/-, laid under Sections 140 and 166 of the Act, for the injuries sustained by him in a motor accident that occurred on 11.03.2006, seeking enhancement of compensation.

2. The appellant herein is the petitioner; respondent No.1 – owner of the offending Auto bearing No.AP 21W 4480, is respondent No.1; and respondent No.2 – Oriental Insurance Company Limited, is respondent No.2, in M.V.O.P.No.575 of 2006. For the sake of convenience, the parties are referred to as they are arrayed in M.V.O.P.No.575 of 2006 before the Tribunal.

3. The fact situation so far as the manner in which the accident had occurred and the injuries sustained by the petitioner in the said accident and also the treatment taken by him are not in dispute between the parties. Therefore, there is no need to advert to the same.

4. The Tribunal, having framed three issues basing on the evidence let in by the petitioner through P.Ws.1 and 2 and the documentary evidence adduced under Exs.A-1 to A-7, and Ex.B-1, copy of insurance policy filed by the 2nd respondent – insurer, while declining to give much credence to the evidence of P.W.2 – Dr. V.V. Raghava Reddy, who treated the petitioner, granted a sum of Rs.63,630/- towards medical expenses, and while discarding the Disability Certificate issued by P.W.2, as it does not contain the relevant particulars, which constitute the basis for arriving at the percentage of disability, and thereby granted a sum of Rs.10,000/- towards pain and suffering, attendant and transportation charges, thus, making a total compensation of Rs.73,630/- with interest @ 7.5% per annum from the date of the petition till realisation.

5. The aforesaid judgment and decree is under challenge in the present appeal, mainly on the ground that a meagre amount was granted towards compensation and that the

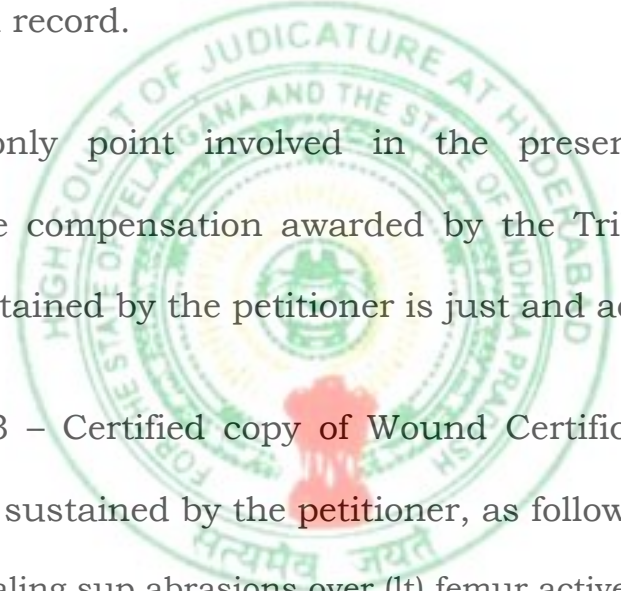
Tribunal has not properly appreciated the evidence on record, while assessing the amount of compensation.

6. Heard Sri Karri Murali Krishna, learned counsel for the appellant/petitioner, as well as Sri R. Venkat Rao, learned Standing Counsel for the 2nd respondent – insurer. Though, service was completed on the 1st respondent – owner of the offending Auto, none appears for him.

7. Perused the order under challenge and evidence available on record.

8. The only point involved in the present appeal is, whether the compensation awarded by the Tribunal for the injuries sustained by the petitioner is just and adequate?

9. Ex.A-3 – Certified copy of Wound Certificate describes the injuries sustained by the petitioner, as follows:

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- “1. Healing sup abrasions over (lt) femur active bleeding +
 - 2. Laceration over (lt) heep in avulsion of heelpad
 - 3. Pason, infirmity I crept over lancer / 3 of (R) leg – I small bleeding penetrated wound over ct.
X-Ray (R) Leg ap cat
Fracture (R) heel / fibula lower/3
Wound (1) is simple
Wound (2) (3) are grievous in nature”

The said Certificate was issued by Dr. V.V. Raghava Reddy, who was examined as P.W.2, from a Government Hospital.

10. The very fact that the petitioner sustained two fracture injuries, which are described as injury Nos.2 and 3, would itself is sufficient to arrive at a conclusion that the amount of

Rs.10,000/- granted by the Tribunal towards pain and suffering, attendant and transportation charges, is on lower side. Therefore, for both the fracture injuries, which were shown as injury Nos.2 and 3, keeping in view the nature of the injuries, the petitioner is entitled to a sum of Rs.50,000/-, including pain and suffering, as against the sum of Rs.10,000/- granted by the Tribunal.

11. So far as the amount of Rs.63,630/- granted by the Tribunal towards medical expenses is concerned, the same is confirmed, since it is based on the documentary evidence filed by the petitioner, which were proved through the evidence of P.W.2.

12. Besides the said amounts, the petitioner is also entitled to a sum of Rs.5,000/- towards extra-nourishment, which the Tribunal ignored to award, Rs.3,000/- towards attendant charges, and Rs.2,000/- towards transportation charges. This apart, the petitioner is also entitled towards loss of temporary earnings @ Rs.3,000/- per month for three months, which comes to Rs.9,000/-. Thus, the petitioner is entitled to a total compensation of Rs.1,32,630/- (Rs.50,000/- + Rs.63,630/- + Rs.5,000/- + Rs.3,000/- + Rs.2,000/- + Rs.9,000/- = Rs.1,32,630/-), as against the compensation of Rs.73,630/- awarded by the Tribunal, with interest @ 7.5% per annum, as awarded by the Tribunal, on the enhanced amount of Rs.59,000/- also.

13. Accordingly, the Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.73,630/- to Rs.1,32,630/- (Rupees one lakh thirty two thousand six hundred and thirty only) with interest @ 7.5% per annum on the enhanced amount of Rs.59,000/- also, from the date of the petition till realization. There shall be no order as to costs.

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

19.08.2016.
Msr

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