

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1149 of 2009

JUDGMENT :

The instant Civil Miscellaneous Appeal is preferred by the appellant-petitioner aggrieved by the judgment and decree dated 05.08.2005, passed in O.P.No.1479 of 2001 by the Motor Accidents Claims Tribunal (IV Additional District Judge - FTC), Nizamabad (for brevity "the Tribunal"), whereby and whereunder a sum of Rs.40,000/- was awarded towards compensation with interest @ 7.5% per annum, as against the claim of Rs.3,00,000/- laid under Section 166 (1)(a) of the Motor Vehicles Act, 1988 r/w. Rule 455 of A.P. Motor Vehicles Rules, 1989, for the injuries sustained by him in a motor accident, seeking enhancement of compensation.

2. The appellant herein is petitioner, respondent No.1 is the owner of offending Lorry bearing No.AP-16-X-6868; and respondent No.2 – United India Insurance Company Limited is respondent No.2 in O.P.No.1479 of 2001. For the sake of convenience, the parties are referred to as they are arrayed in O.P.No.1479 of 2001 before the Tribunal.

3. Heard Sri Venkateshwar Varanasi, learned counsel for the appellant – petitioner, and Sri T. Ramulu, learned Standing Counsel for 2nd respondent – insurer, while there is an endorsement that 1st respondent-owner of the offending Lorry is not a necessary party.

4. Perused the order under challenge and the evidence on

record, both oral and documentary.

5. The fact situation and the manner in which the accident has taken place are not in dispute. The only controversy, which is required to be resolved, is whether the evidence of P.W.2 – Dr. V. Akhilesh, who treated the petitioner, can be accepted and the documentary evidence under Ex.A-4 – Discharge Card issued by Pragathi Hospital, Nizamabad, along with Exs.A-5 to A-9, can be accepted and acted upon, under typical circumstances occurring in this case. However, it is not in dispute that Exs.C-2 and C-3, which are Case Sheet and MIC X-ray, respectively, relate to the petitioner, are not disputed. The Tribunal disagreed with the stand taken by the petitioner and discarded Ex.C-1 – Disability Certificate issued by P.W.2 (marked through the Commissioner) and the whole documentary evidence marked under Exs.A-4 to A-9 and A-11, on the ground that one Dr. T. Narsing Rao has issued Ex.A-3 – Certified copy of Wound Certificate, as if it was issued by a Government Hospital, Nizamabad, which proved to be false, when a letter was addressed by the Tribunal to the Superintendent, Government Hospital, Nizamabad, requiring the Case Sheet of the petitioner, and as a response, Exs.C-2 and C-3 were sent and marked as exhibits. The Tribunal made serious comments in paragraph Nos.17 to 19 of the judgment under challenge, referring to the order passed by this Court in AAO.No.3518 of 2004 and the directions issued therein not to act upon the Disability Certificates and Wound Certificates issued by Dr. T. Narsing Rao and Dr. L. Ramulu. Therefore, the finding recorded by the Tribunal in discarding the documentary evidence under Exs.A-3 to A-12 and C-1, issued by P.W.2, does not suffer from any legal infirmity.

6. Now, the question is, whether the amount of Rs.5,000/-

granted by the Tribunal towards grievous injuries described under Ex.C-2, is just and reasonable?

7. As could be seen from Ex.C-2 – Case Sheet pertaining to the petitioner, he sustained two (2) punctured wounds over the anterior aspect of left leg abnormal mobility of left leg, X-ray suggested to left leg and seen by Orthopaedic Surgeon, wherein it was mentioned that X-ray reveals fracture of both bones of left leg with suspected fracture of medial malleolus and POP slap is applied to the left leg and he was discharged on 06.07.2001. He was admitted in Government Hospital on the same day. Keeping in view, that there was fracture to both bones of left, leg as mentioned in Ex.C-2, the amount of Rs.5,000/- granted by the Tribunal is enhanced to Rs.40,000/-, including pain and suffering. Towards temporary loss of earnings, no amount is granted by the Tribunal. Therefore, @ Rs.2,000/- per month, for six months, a sum of Rs.12,000/- is granted towards temporary loss of earnings. The petitioner is also entitled to a sum of Rs.5,000/- towards extra-nourishment, Rs.5,000/- towards attendant charges, and Rs.2,000/- towards transport charges. The amount of Rs.11,663-30, which was rounded off to Rs.15,000/-, towards medical expenses granted by the Tribunal, is maintained. Thus, the petitioner is entitled to a total compensation of Rs.79,000/- (Rupees seventy nine thousand only), as against the compensation of Rs.40,000/- awarded by the Tribunal, with interest @ 7.5% per annum on the enhanced amount also.

8. Accordingly, this Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.40,000/- to Rs.79,000/- (Rupees seventy nine thousand only) with interest @ 7.5% per annum, on the enhanced amount also, from the date of

the petition till the date of realization. No order as to costs.

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

JUSTICE A. SHANKAR NARAYANA

03.08.2016.

Msr

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1149 of 2009

03.08.2016
Msr