

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2741 OF 2009

JUDGMENT:

The present appeal is preferred by the petitioner under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act') seeking enhancement of compensation of Rs.71,000/- awarded by the learned Chairman, Motor Accident Claims Tribunal - cum - VI Additional District Judge (Fast Track Court), Nizamabad at Kamareddy (for short 'the Tribunal'), by order and decree, dated 14-09-2006, in O.P. No.1525 of 2003, as against the claim of Rs.3,00,000/- laid under Section 166 of the Act, on the ground that the same is on lower side.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2, who are owner and insurer of Hero Honda Motorcycle bearing registration No.AP 25C 8173, respectively, are respondents as such in OP before the Tribunal.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed in OP.

4. So far as the fact-situation occurring in the instant case is concerned, there is no dispute between the parties.

5. Heard Sri Venkateshwar Varanasi, learned counsel for the petitioner, and Sri T. Ramulu, learned standing counsel for respondent No.2 - Insurer. So far as respondent No.1 is concerned, he remained

ex parte before the Tribunal and, therefore, it appears that an endorsement is made in the grounds of appeal that he is not a necessary party.

6. The Tribunal having analyzed the evidence of PW.2, the medical officer, somehow, ignoring the disability of 25% mentioned in Ex.C-1, disability certificate, marked through PW.2 - Dr.V. Akhilesh, who issued it, granted Rs.20,000/- each for two fracture injuries and Rs.3,000/- for one simple injury, besides granting Rs.18,000/- @ Rs.3,000/- per month for six months towards temporary loss of earnings; and Rs.10,000/- towards pain and suffering and, thus, a total sum of Rs.71,000/- was granted as compensation with interest at 9% per annum. Even, ignoring Ex.C-1 (though marked through PW.2, not shown in evidence of appendix), as it was not issued by the concerned Medical Board, but issued by PW.2 himself without there-being proper elaboration as to how he assessed 25% disability, still, when kept in view, the first injury, which is fracture of both bones of right leg, a sum of Rs.35,000/- would be reasonable as against Rs.20,000/- granted by the Tribunal. So far as the second injury is concerned, which is fracture on the end of clavicle, the amount of Rs.20,000/- granted by the Tribunal is reasonable, and so also the amount of Rs.3,000/- towards simple injury; Rs.18,000/- towards temporary loss of earnings and Rs.10,000/- towards pain and suffering. However, no amount was granted under the head of extra nourishment. Therefore, a sum of

Rs.5,000/- is granted. Towards transport charges and attendant charges, a sum of Rs.6,000/- is granted. Thus, in all, the petitioner is entitled to Rs.97,000/- as compensation as against Rs.71,000/- granted by the Tribunal.

7. So far as the rate of interest at 9% per annum granted by the Tribunal is concerned, the same is maintained on Rs.71,000/-, and on the enhanced amount of Rs.26,000/-, interest at 7.5% per annum is granted in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

8. In the result, the appeal is allowed in part, and the order and decree, dated 14-09-2006, in O.P. No.1525 of 2003, passed by the Tribunal are modified enhancing the compensation to Rs.97,000/- (Rupees ninety seven thousand) from Rs.71,000/- granted by the Tribunal with interest at 9% per annum on Rs.71,000/- and at 7.5% per annum on the enhanced amount of Rs.26,000/- (Rupees twenty six thousand) from the date of petition till realization. No order as to costs.

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

A. SHANKAR NARAYANA, J

September 27, 2016.

Mgr

¹. 2013 ACJ 1403