

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1938 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.8,500/- as compensation by the order dated 05.02.2009 in O.P. No.145 of 2005 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-VII Additional District Judge (Fast Track Court), Nizamabad at Bodhan (for short, 'the Tribunal') as against the claim of Rs.1,00,000/- laid under Section 166(1)(a) of the Motor Vehicles Act, 1988 (for short, 'the Act') read with the Rules framed thereunder, for the injuries sustained by the appellant-petitioner in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2 herein, who are the owner and insurer of the van bearing registration No.AP 25U 7303, are respondent Nos.1 and 2, respectively, in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts would show that on 02.05.2004 at about 3-30 p.m., the petitioner along with one Ginna Laxmaiah was going on a bicycle and when they reached Ramreddy petrol bunk, Banswada, a

van bearing registration No.AP 25U 7303 driven by its driver in a rash and negligent manner at high speed, dashed the bicycle from behind, due to which, they fell down and sustained injuries. The petitioner was shifted to Government Hospital, Banswada and he sustained fracture of ninth rib. The petitioner, stating that he spent Rs.40,000/- towards medical expenses and his vegetable business and agriculture were affected, sought the aforesaid amount.

5. Respondent No.1-owner of the accident vehicle remained *ex parte*.

6. Respondent No.2-insurer opposed the claim by filing a counter.

7. Basing on the pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry, the petitioner examined himself as P.W.2, besides examining the doctor as P.W.1 and marked Exs.A.1 to A.3; whereas on behalf of respondent No.2, no witnesses were examined, but a copy of insurance policy was marked as Ex.B.1 on consent.

8. The Tribunal having recorded findings in favour of the petitioner on issue Nos.1 and 2, but so far as award of compensation amount is concerned, for grievous injury, a sum of Rs.5,000/- and for two simple injuries, a sum of Rs.1,000/- each, towards pain and suffering and extra nourishment, a sum of Rs.1,000/- towards

transport charges and a sum of Rs.500/- are granted making a total of Rs.8,500/- with interest at 7.5% per annum.

9. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal has granted very meager amount as compensation and, hence, sought to grant the balance amount.

10. Heard Sri Y.S.Yellanand Gupta, learned counsel for the appellant-petitioner. Though, service was completed on respondent Nos.1 and 2, none appears for them.

11. Perused the order under challenge and the evidence on record. The grievous injury sustained by the petitioner was on account of the fracture of ninth rib on the left chest. The other injuries are simple in nature. When kept in view, the grievous injury sustained by the petitioner, the amount of Rs.5,000/- granted by the Tribunal requires enhancement and, therefore, it is enhanced to Rs.15,000/-. The amount of Rs.1,000/- each granted by the Tribunal for two simple injuries is enhanced to Rs.3,000/- each making a total of Rs.6,000/- for two simple injuries sustained by the petitioner. The amount of Rs.1,000/- granted by the Tribunal towards pain and suffering and extra nourishment is enhanced to Rs.3,000/- while maintaining the amount of Rs.500/- granted by the Tribunal towards transport charges.

12. Thus, the petitioner is entitled to a total sum of Rs.24,500/- (Rupees twenty four thousand and five hundred) as

against Rs.8,500/- granted by the Tribunal towards compensation and the same is accordingly granted. So far as the rate of interest is concerned, the Tribunal granted the same at 7.5% per annum and the same is maintained on the entire amount of compensation in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

13. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

14. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

22nd August, 2016
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A. SHANKAR NARAYANA, J

¹ 2013 ACJ 1403