

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2071 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.21,000/- as compensation by the order dated 07.12.2006 in O.P. No.586 of 2004 (Old O.P. No.407 of 2003) on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Nalgonda at Suryapet (for short, 'the Tribunal') as against the claim of Rs.1,00,000/- laid under Section 166 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. Appellant herein is the petitioner, while respondent Nos.1 and 2 herein, who are the owner and insurer of the accident vehicle, i.e., auto-rickshaw bearing registration No.AP 24U 3930, 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. Since no appeal is preferred by respondent No.2- Insurance Company, advertence to the fact-situation is unnecessary.

5. Heard Sri M.Rajamalla Reddy, learned counsel for the appellant-petitioner. No representation for respondent No.2-Insurance Company. Though, service was completed on respondent No.1-owner, none appears for him.

6. The Tribunal, having recorded finding on issue Nos.1 and 2 in favour of the petitioner, taken 5% disability as against 10% assessed by the District Medical Board of Nalgonda, by applying multiplier factor '17' and taking the annual income at Rs.18,000/-, arrived at Rs.14,000/- towards partial permanent disability or loss of future earning capacity. Besides the same, the Tribunal has also granted Rs.5,000/- towards pain and suffering and Rs.2,000/- towards loss of income during the bedridden period, making a total of Rs.21,000/- and granted the same with interest at 7.5% per annum from the date of petition till the date of realization.

7. No reasons were assigned by the Tribunal in reducing 10% to that of 5%. In such an event, certainly, the petitioner is entitled to double the amount awarded towards the loss of future earning capacity and, therefore, the amount of Rs.14,000/- is enhanced to Rs.28,000/-. The amount of Rs.5,000/- granted by the Tribunal towards pain and suffering is enhanced to Rs.10,000/-. The amount of Rs.2,000/- granted by the Tribunal towards loss of temporary earnings during bedridden period is enhanced to Rs.6,000/- in view of the inability or inconvenience met with by the petitioner till he regained normalcy for atleast three months. Towards extra

nourishment, a sum of Rs.5,000/- is granted, since the Tribunal has not granted any amount under this head.

8. Thus, the petitioner is entitled to a total sum of Rs.49,000/- (Rupees forty nine thousand) as against Rs.21,000/- 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.

9. 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.

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

A. SHANKAR NARAYANA, J

16th September, 2016

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¹ 2013 ACJ 1403