

HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A.No.928 of 2006

JUDGMENT:

This appeal is arising out of the order dated 06-12-2005 passed in M.V.O.P.No.360 of 2014 on the file of III Additional District Judge, Cuddapah (Fast Track Court, Cuddapah).

The appellant is the injured in motor vehicle accident occurred on 05-06-2003. He filed petition under Section 166 of Motor Vehicles Act claiming compensation of Rs.2,50,000/-, whereas the Tribunal on consideration of the evidence awarded compensation of Rs.50,000/- with interest @ 7.5% per annum.

Heard Smt.Kiranmai, learned counsel for the appellant. Learned counsel for the respondents not present. The arguments on behalf of respondents are deemed heard.

Learned counsel for the appellant submits that the Tribunal has not taken into consideration of the certificate showing the disability of 30% issued by the private medical officer. The appellant is a cleaner by profession. After the accident, he could not attend to his duties for quite some time. He has taken treatment in a Government Hospital. The medical officer of the Government Hospital has only issued the certificate showing the disability of 30%. Since the disability certificate is not issued by the Medical Board, the Tribunal has not considered the same. On this ground, the appellant sought for enhancement of compensation.

It is obvious that the disability certificate Ex.A.9 is issued by the Medical Officer who is working in a Government hospital, but he has issued the same in his private capacity. Therefore, the medical certificate cannot be taken into consideration as that of the certificate issued by the Medical Board.

Learned counsel for the appellant further submits that the Tribunal has awarded very meagre amount for the grievous injuries. The Tribunal has awarded Rs.10,000/- towards pain and suffering and Rs.25,000/- towards loss of earnings. No doubt, the Tribunal has not awarded adequate compensation for pain and suffering and also for loss of earnings. This is a case, where the appellant has suffered fracture of his right thigh. He had undergone treatment in the hospital as in-patient for a period of 12 days and even thereafter, he could not have attended to his duties for few months. The appellant is a cleaner by profession. Due to fracture, he cannot perform his duties as effectively as before the accident. Therefore, on consideration of the evidence on record, the appellant is entitled for enhancement of compensation for pain and suffering from Rs.10,000/- to Rs.25,000/- and for loss of earnings from Rs.25,000/- to Rs.50,000/-. The Tribunal has awarded Rs.5,000/- towards Transport, Rs.10,000/- towards medicines and extra-nourishment, which do not require any interference as they are reasonable.

In the result, the appeal is partly allowed and accordingly the compensation awarded by the Tribunal is enhanced from Rs.50,000/- to Rs.90,000/- with proportionate costs and subsequent interest at the rate of 7.5% per annum from the date of petition till realization. In consequence, miscellaneous petitions, if any, pending in this appeal shall stand closed. No order as to costs.

G. SHYAM PRASAD, J

23-12-2016
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WRIT PETITION No. 11686 OF 2007

Date.17-09-2016

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