

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2580 OF 2009

JUDGMENT:

Seeking enhancement of compensation, the present Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act 1988, is preferred by the petitioner in O.P. No.1836 of 2001 on the ground that the amount of Rs.35,000/- granted as compensation by the learned Chairman, Motor Accidents Claims Tribunal - cum - III Additional District Judge, (Fast Track Court), Nizamabad through the order and decree dated 20.07.2005, for the injury sustained by him, who was minor on the date of accident, is meager.

2. The fact-situation need not be adverted to in view of the fact that the appeal is preferred by the petitioner - claimant and neither the insurer nor the insured preferred any appeal.

3. The Tribunal, having framed three (3) issues, during trial, examined the petitioner as PW.1 and the Doctor, V. Akhilesh as PW.2, who issued Ex.A-6 disability certificate showing that the petitioner sustained 35% partial permanent disability on account of shortening of leg due to comminuted fracture of both bones of right leg. The Tribunal having found from Ex.A-4 medical certificate issued by the Government Area Hospital, Jagtial, Karimnagar District, awarded a sum of Rs.20,000/- towards injury, Rs.4,000/- towards treatment though, no documentary evidence is forthcoming, Rs.2,000/- towards extra-nourishment, Rs.1,000/- towards transport

charges, Rs.5,000/- towards pain and suffering and Rs.3,000/- towards loss of earnings during the treatment period. Thus, the Tribunal granted a total sum of Rs.35,000/- as compensation with interest at 9% per annum from the date of petition till realisation.

4. Heard Sri Venkateshwara Varanasi, learned counsel for the petitioner - appellant.

5. It is endorsed in the cause title of the grounds of appeal itself that respondent No.1, owner of the Service Bus bearing No.AP-15-U-3666 that involved in the accident, is not a necessary party.

6. Despite service of notice on respondent No.2 - United India Insurance Company Limited, insurer of the bus that involved in the accident, none appears.

7. Perused the order and decree under challenge and the evidence on record.

8. Even rejecting the evidence of PW.2, as it has come up in the other matters that he was in the habit of issuing disability certificate exaggerating the disability and on occasions even when there is no disability at all, he was in the habit of issuing disability certificate, still, taking into consideration, the wound certificate under Ex.A-4 issued by the Area Medical Officer of the Government Area Hospital, Jagtial, Karimnagar District, it can be said that the amount awarded by the Tribunal appears to be on lower side. The amount of

Rs.20,000/- granted towards injury and Rs.5,000/- towards pain and suffering, when kept in view, the comminuted fracture of both bones of right leg, are, certainly, on lower side. When kept in view, the sufferance the petitioner was put to at the age of 13 years on account of the said injury, certainly, he is entitled to Rs.40,000/- towards injury, as against Rs.25,000/- including the amount towards pain and suffering granted by the Tribunal. The petitioner is also entitled to Rs.5,000/- towards extra-nourishment. The other amounts granted by the Tribunal at Rs.4,000/- towards treatment, Rs.1,000/- towards transport and Rs.3,000/- towards loss of earnings are maintained.

9. Thus, the petitioner is entitled to a total amount of Rs.53,000/- (Rupees fifty three thousand only) as against Rs.35,000/- granted by the Tribunal and the same is accordingly granted. The rate of interest at 9% per annum granted by the Tribunal is maintained on the amount of Rs.35,000/- awarded by the Tribunal and on the enhanced amount of Rs.18,000/-, interest is granted at 7.5% per annum from the date of petition till realisation.

10. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the order under challenge by enhancing the compensation, as indicated above. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

A. SHANKAR NARAYANA, J

November 16, 2016.

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