

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2023 of 2009

JUDGMENT :

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is preferred by the appellant - petitioner, aggrieved by the order and decree dated 02.09.2004, passed in O.P.No.479 of 1998 by the Chairman, Motor Accidents Claims Tribunal (District Judge), Nizamabad District (for brevity "the Tribunal"), whereby and whereunder a sum of Rs.5,000/- was awarded towards compensation with interest @ 9% per annum, as against the claim of Rs.1,50,000/-, laid under Section 166 of the Act, for the injuries sustained by him in a road accident that occurred on 26.07.1997, seeking enhancement of compensation.

2. The appellant herein is petitioner, the 1st respondent – owner of the lorry bearing No.GJ 7/T 8187 is respondent No.1, and the 2nd respondent – Oriental Insurance Company Limited is 2nd respondent, in O.P.No.479 of 1998. For the sake of convenience, the parties are referred to as they are arrayed in O.P.No.479 of 1998 before the Tribunal.

3. The fact-situation, touching the manner in which the accident had occurred is not in dispute. As projected, while the petitioner and others were travelling in RTC Bus bearing

No.AP 9/Z 5588 from Hyderabad, a lorry bearing No.GJ 7/T 8187 belonging to the 1st respondent – owner came in opposite direction and hit the said bus, resulting in the death of a female passenger and sustaining injuries by the other passengers, including the petitioner, who sustained grievous injuries to head, lost two teeth and the other teeth became loosened, besides injuries to face, lip and other multiple injuries on various parts of the body.

4. The Tribunal, having framed two issues and appraised the evidence on record, arrived at a total compensation of Rs.5,000/- with interest @ 9% per annum from the date of petition till realisation. Hence, the present Civil Miscellaneous Appeal, seeking enhancement of compensation.

5. Heard Sri K.M. Mahender Reddy, learned counsel for the appellant – petitioner, and Sri N.S. Bhaskar Rao, learned Standing Counsel for the 2nd respondent - insurer. Though, 1st respondent – owner is served, none appears for him.

6. Perused the order under challenge and evidence available on record.

7. The Tribunal, having recorded that though, Exs.A.3 – certified copy of accident register, and A.5 – prescriptions issued by Gandhi Hospital, Secunderabad, would show that the petitioner received lacerated injury on forehead below the left premolar tooth, loosening of the left premolar tooth and

abrasion on the base of left central incisor, there was no mention about the petitioner received grievous injuries, somehow, lost sight of the fact that the loosening of the left premolar teeth would amount to grievous injury.

8. It is not in dispute that the petitioner, being a Teacher in Government School, did avail 20 days leave on two occasions for his treatment, therefore, a sum of Rs.20,000/- is awarded for the injuries by the petitioner and a sum of Rs.10,000/- is awarded towards avilment of leave. Thus, the petitioner is entitled to a total compensation of Rs.30,000/-, as against the compensation of Rs.5,000/- awarded by the Tribunal. The enhanced amount of Rs.25,000/- shall carry interest @ 7.5% per annum, in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

9. Accordingly, the Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.5,000/- to Rs.30,000/- (Rupees thirty thousand only) with interest @ 7.5% per annum on the enhanced amount of Rs.25,000/- (Rupees twenty five thousand only), while maintaining interest @ 9% per annum on the amount awarded by the Tribunal, from the date of the petition till the date of realization. No order as to costs.

¹ 2013 ACJ 1403

10. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE A. SHANKAR NARAYANA

08.09.2016.
Msr



HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2023 of 2009



08.09.2016
Msr