

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.854 OF 2005

JUDGMENT:

Feeling dissatisfied with the award of Rs.25,000/- as compensation by order and decree, dated 25.04.2000, in O.P.No.14 of 1997, on the file of Chairman, Motor Accidents Claims Tribunal – cum – Principal District Judge, Nalgonda, as against the claim of Rs.75,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the petitioner – claimant preferred the instant appeal seeking enhancement of compensation.

2. The appellant is the petitioner, whereas respondent Nos.1 and 2, who are the owner and insurer of the offending vehicle, are respondent Nos.1 and 2 in the O.P. before the Tribunal.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the O.P. before the Tribunal.

4. The facts in brief are that the petitioner was pursuing his graduation in a degree college at Miryalaguda and on 16.10.1996 at about 08:00 AM, while he started from his Village Kalaveedi in an Auto bearing registration No.AP-24-T-7552 to go to his college and when it reached near Edulagudem Village, since the Auto

driver driven the Auto in a rash and negligent manner, it turned upside down, due to which, he sustained fracture to his leg and got treated in Prashanth Nursing Home and had spent huge amount and therefore, sought to grant Rs.75,000/- as compensation under section 166 of the Act against respondent Nos.1 and 2, who are the owner and insurer of the offending vehicle.

5. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 – Insurer opposed the claim.

6. Based on the said pleadings, in the direction of accounting for responsibility about the accident, the Tribunal has framed three issues. During enquiry, petitioner examined himself as PW.1 and marked Exs.A1 to A6 to substantiate the claim laid. On behalf of respondent No.2, no evidence, either oral or documentary, was let in.

7. The Tribunal, having analysed the evidence on record, held issue No.1 in favour of the petitioner. As regards determination of compensation, the Tribunal having appreciated the evidence on record, more particularly, the description of injuries shown in Ex.A4 and the Disability Certificate marked as Ex.A5, granted Rs.20,000/- towards pain and suffering and Rs.5,000/- towards medical expenses, though no person is examined to prove the contents in Ex.A6 – Bunch of

medical bills, four in number, thus, making a total of Rs.25,000/- with interest at 12% per annum.

8. It is the aforesaid order which is under challenge in the instant appeal on the main ground that the Tribunal did not properly appreciate the evidence on record and has not taken the disability at 55% as could be found from Ex.A5 and therefore, sought to grant the balance amount.

9. Heard Sri Ch. Janardhan Reddy, learned counsel for the appellant. No representation for respondent No.2 – Insurance Company, when the matter is called. The instant appeal was dismissed against respondent No.1 on 03.01.2012, but, however, it would not make any difference in adjudicating upon whether the petitioner is entitled to enhancement of compensation or not, as respondent No.1, owner of the offending vehicle, suffered decree passed by the Tribunal.

10. Adverting to the injuries sustained by the petitioner, the description of injuries in Ex.A4 reflects that the petitioner sustained fracture of shaft of left femur at the junction of middle and lower third and three abrasions of 2 x 2", 2 x 1" and 2 x 2 x 1/4" on dorsum of left foot, lateral side of left thigh and medial side of left thigh, respectively.

The finding recorded by the Tribunal so far as the disability mentioned in Ex.A5 is concerned, cannot be interfered with for want of examination of the Medical

Officer, who issued it. However, when kept in view, the nature of injuries and the sufferance the petitioner had undergone, certainly, the amount of Rs.20,000/- granted towards pain and suffering requires enhancement and the same is enhanced to Rs.40,000/-. The amount of Rs.5,000/- granted by the Tribunal towards medical expenses is maintained since there are no accompanying prescriptions. No amount was granted towards extra nourishment and hence, Rs.5,000/- is granted under the said head. Towards transport charges and attendant charges put together, an amount of Rs.5,000/- is granted. Thus, the petitioner is totally entitled to Rs.55,000/- as against Rs.25,000/- granted by the Tribunal and the same is granted. The interest awarded by the Tribunal at 12% per annum is maintained on the original amount of Rs.25,000/- awarded by the Tribunal and on the enhanced amount, the petitioner is entitled to interest at 7.5% per annum from the date of petition till realisation, as per the decision of the Honourable Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1].

11. Accordingly, the instant appeal is allowed in part. There shall be no order as to costs.

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

A. SHANKAR

NARAYANA, J

April 01, 2016.
MD

[\[1\]](#) (2013) 9 SCC 54