

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.838 OF 2005

JUDGMENT:

Having got dissatisfied with the amount of Rs.5,000/- granted as compensation by the order dated 03.01.2005 in M.V.O.P. No.597 of 2000 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-VII Additional District Judge (Fast Track Court), Nizamabad at Bodhan (for short, 'the Tribunal') as against the claim of Rs.1,00,000/- laid under Section 166(1)(a) of the Motor Vehicles Act, 1988 (for short, 'the Act') r/w Rule 455 of 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. The appellant herein is the petitioner, while respondent Nos.1 and 2 herein, who are the Depot Manager and Managing Director of the Andhra Pradesh State Road Transport Corporation (for short, 'respondent-Corporation'), 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. The facts in brief are that on 22.11.1999 at

about 2-00 p.m., the petitioner along with others was travelling in a jeep bearing registration No.AP 25T 7546 towards Mosra village and when they reached Gandhi Nagar, Nizamabad, a bus belonging to the respondent-Corporation bearing registration No.AP 9Z 9113 came at high speed in a rash and negligent manner and dashed the jeep from behind, due to which, the petitioner sustained injuries. According to him, he sustained multiple grievous injuries all over his person, besides fracture injury to his left collar bone. He was shifted to Government Headquarters Hospital, Nizamabad for treatment and, thereafter, he took treatment under a private doctor. Claiming that he was unable to perform work as he used to perform work earlier, sought a sum of Rs.1,00,000/- from respondent Nos.1 and 2.

5. Common counter was filed by both the respondents opposing the claim and the permanent disability sustained by the petitioner including fractures.

6. Basing on the said pleadings, the Tribunal framed the following issues about the responsibility for the accident:

"1. Whether the accident was due to rash and negligent driving of the RTC bus bearing No.AP-9-Z-9113 by its driver?

2. Whether the petitioner is entitled to compensation sought for ?

3. To what relief?"

7. During enquiry, the petitioner examined himself as P.W.1 besides examining the doctor as P.W.2 and marked Exs.A.1 to A.6 to substantiate his claim; whereas, on behalf of the respondents, no witnesses were examined and no documents were filed.

8. On appraisal of evidence on record, both, oral and documentary, let in by the petitioner, held issue No.1 in favour of the petitioner. On issue No.2, so far as the injuries are concerned, the Tribunal, observing that Ex.A.2-injury certificate does not disclose any grievous injury and that the petitioner was unable to state as to how many days he was treated in the hospital and no X-ray film and radiologist's report were filed by the petitioner, while discarding the evidence of P.W.2 and the disability certificate issued by him basing on the observations of this Court in C.M.A. No.3004 of 2004 dated 24.09.2004 and judgment dated 09.11.2004 in C.M.A. No.3518 of 2004 concerning the said doctor, L.Ramulu and one Dr. Narsinga Rao respectively, did not incline to accept Ex.A.5-disability certificate and the evidence of P.W.2. The Tribunal has, thus, granted only a sum of Rs.5,000/- towards compensation treating the injury as simple injury with interest at 9% per annum from the date of petition till realization.

9. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the compensation granted by the Tribunal is on lower side and the Tribunal was not right in refusing to accept the evidence of P.W.2 who assessed disability at 30%, and, therefore, sought to grant balance amount.

10. Heard Sri M.Rajamalla Reddy, learned counsel for the appellant-petitioner. None appears for respondent Nos.1 and 2 despite service of notice.

11. Perused the order and the evidence on record, both, oral and documentary, let in by the petitioner. The very fact that Ex.A.2-wound certificate does not disclose that X-ray being taken and the Radiologist's report constitutes basis for recording the second injury as grievous and even the answer given by P.W.2 in expressing ignorance as to how many days P.W.1 was treated as inpatient, the finding recorded by the Tribunal that the petitioner sustained only simple injuries in disbelieving the evidence of P.W.2 as well as Ex.A.2-wound certificate, certainly, cannot be upset, since the said reasoning was based on the observations made by this Court in C.M.A. Nos.3004 of 2004 and 3518 of 2004, which are extracted in sub-paragraph (ii) of paragraph No.9 by the Tribunal. However, keeping in view, the petitioner sustained two or more simple injuries, the amount of Rs.5,000/- granted by the Tribunal is

enhanced to Rs.10,000/-.

12. Thus, the petitioner is entitled to a total sum of Rs.10,000/- (Rupees ten thousand) as against Rs.5,000/- 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 9% per annum and the same is maintained on the amount granted by the Tribunal and on enhanced amount, interest at 7.5% per annum is granted from the date of petition in view of the decision of the Hon'ble Apex Court in **Rajesh and others Vs. Rajbir Singh and others**^[1].

13. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation with interest, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

4th February, 2016

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