

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1627 OF 2005

JUDGMENT:

Having got dissatisfied with the award of Rs.6,000/- as compensation by the order dated 08.03.2004 in M.V.O.P. No.656 of 2008 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Srikakulam (for short, 'the Tribunal') as against the claim of Rs.1,00,000/- laid under Sections 140, 163-A and 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the injuries sustained by the appellant-petitioner, who is minor represented by his mother and natural guardian, 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 to 3 herein, who are the driver, owner and insurer of the lorry bearing registration No.AP 16V 778, are respondent Nos.1 to 3, 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 04.01.1998 at about 10-00 a.m., while the petitioner was waiting along

with his mother and others at the bus stop near Meliaputti road junction, Srikakulam District, on national highway No.5, a lorry bearing registration No.AP 16V 778 driven by its driver in a rash and negligent manner came and dashed the petitioner and another lady and immediately they were shifted to Government Hospital, Tekkali, where they were treated. The petitioner was aged 1½ years and, therefore, his next friend and mother prosecuted the claim petition.

5. Respondent Nos.1 and 2, who are driver and owner of the accident vehicle, remained *ex parte*. Respondent No.3-insurer opposed the claim raising various pleas.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry, the next friend and mother of the petitioner examined herself as P.W.1 besides marking Exs.A.1 to A.6 to substantiate his claim; whereas, on behalf of respondent No.3-Insurance Company, no witnesses were examined and no documents were filed.

7. On appraisal of the evidence on record, both, oral and documentary, let in by the petitioner, the Tribunal held issue No.1 in favour of the petitioner; and on issue No.2, observing that the petitioner sustained simple injury, granted a sum of Rs.1,000/- for simple injury and Rs.5,000/- towards pain and suffering making a total sum

of Rs.6,000/- with interest at 6% per annum from the date of petition till realization.

8. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal has granted a meager amount as compensation, and, therefore, sought to grant the balance amount.

9. Heard Sri Aravala Rama Rao, learned counsel for the appellant-petitioner, and Sri N.S. Bhaskar Rao, learned Standing Counsel for respondent No.3-Insurance Company. It is endorsed in the cause title of grounds of appeal that respondent No.1-driver is not a necessary party to this appeal. Despite service of notice on respondent No.2-owner, none appears for him.

10. Perused the medical certificate issued by the doctor marked as Ex.A.1 and also Ex.A.2-outpatient chit relating to the petitioner. There is a scar when the photograph of the petitioner affixed on the claim petition is seen on the front left side of the forehead, which is outcome of the injury sustained by him, though, it is a lacerated and simple injury, keeping in view, the age of the petitioner, the amount of Rs.6,000/- granted by the Tribunal as compensation is enhanced to Rs.20,000/-.

11. Thus, the petitioner is entitled to a total sum of Rs.20,000/- (Rupees twenty thousand) as against

Rs.6,000/- 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 6% per annum and the same is enhanced to 7.5% per annum on the entire amount of compensation in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[1].

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

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

A. SHANKAR NARAYANA, J

12th April, 2016

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^[1] 2013 ACJ 1403