

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2974 OF 2005

JUDGMENT:

Having got dissatisfied with the amount of Rs.34,000/- granted as compensation by the order dated 14.09.2005 in O.P. No.656 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge (Fast Track Court), Asifabad, Adilabad (for short, 'the Tribunal') as against the claim of Rs.2,50,000/- laid under Sections 163-A and 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 to 3 herein, who are the driver, owner and insurer of the motorcycle bearing registration No.AP 1/B 90, respectively, 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 11.08.2000, the petitioner was riding pillion of motorcycle bearing

registration No.AP 1/B 90 while respondent No.1 was riding it and when they crossed Patha Mancheri, since respondent No.1 drove the vehicle in a rash and negligent manner at high speed, it hit a cow, due to which, he fell down and suffered serious injuries. Hence, the claim is laid seeking the aforesaid amount from respondent Nos.1 to 3, who are driver, owner and insurer of the motorcycle.

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 a specific plea that respondent No.1 had no valid driving licence on the date of accident.

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

"1. Whether the petitioner sustained injuries in the accident occurred on 11-08-2000 due to rash and negligent driving of motorcycle No.AP-1/B-90 but its driver?

2. Whether the petitioner is entitled to any compensation? If so, to what amount and against whom?

3. To what relief?"

7. During enquiry, the petitioner examined himself as P.W.1 besides marking Exs.A.1 to A.14 to substantiate his claim; whereas, on behalf of respondent

No.3-Insurance Company, no witnesses were examined and no documents were filed.

8. On appraisal of evidence on record, the Tribunal held issue No.1 in favour of the petitioner; and on issue No.2, having considered the oral and documentary evidence and the treatment undergone by the petitioner in Appolo Hospital at Hyderabad between 12.08.2000 and 23.08.2000, granted a sum of Rs.10,000/- towards loss of earnings, Rs.1,000/- towards transport expenses, Rs.15,000/- towards medical expenses, Rs.3,000/- towards incidental charges and Rs.5,000/- towards pain and suffering, and, thus, a total amount of Rs.34,000/- was granted with interest at 7.5% 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 Tribunal has not appreciated the evidence on record, more particularly, Exs.A.4 to A.7, which would show that the petitioner had incurred Rs.1,00,000/- towards medical expenses and the Tribunal arbitrarily awarded Rs.15,000/- under the head 'medical expenses' and even other amounts awarded towards pain and suffering, loss of earnings, transport expenses and incidental charges are on lower side, and, therefore, sought to grant balance amount.

10. Heard Sri S.Surender Reddy, learned counsel

for the appellant-petitioner. Service of respondent Nos.1 and 2 is treated as effective as per the order passed by this Court on 05.01.2012. Though, served with notice, none appears for respondent No.3-Insurance Company.

11. It is submitted by the learned counsel for the appellant that admittedly, the Tribunal has not granted any amount, though, final bill issued by Appolo Hospital, Hyderabad, would show more than Rs.80,000/- and the other bills towards purchase of medicines in the same pharmacy and even the amount granted towards pain and suffering is far below when compared to the just compensation to be awarded, and, thus, sought to grant the balance amount.

12. A perusal of the documents, i.e., both Exs.A.6 and A.7, would show that the final bill was Rs.84,681/- for the period between 12.08.2000 and 25.08.2000. The petitioner cannot be deprived of the said amount. Hence, the said amount is granted. The amount of Rs.5,000/- granted by the Tribunal towards pain and suffering requires enhancement, when kept in view, the injuries sustained by the petitioner. Thus, it is enhanced to Rs.20,000/-. The amount of Rs.1,000/- granted towards transport expenses, the amount of Rs.10,000/- granted towards loss of earnings and the amount of Rs.3,000/- granted towards incidental charges by the Tribunal are maintained. Towards extra nourishment, no amount is

granted. Therefore, a sum of Rs.5,000/- is granted towards the same.

13. Thus, the petitioner is entitled to a total sum of Rs.1,23,681/- (Rupees one lakh twenty three thousand six hundred and eighty one) as against Rs.34,000/- 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 7.5% per annum and the same is maintained on the entire amount of compensation from the date of petition till date of realization in view of the decision of the Hon'ble Apex Court in **Rajesh and others Vs. Rajbir Singh and others**^[1].

14. 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.

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

A. SHANKAR NARAYANA, J

9th February, 2016

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