

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. No.750 OF 2009

JUDGMENT:

The petitioners in O.P. No.630 of 2003 preferred the instant Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'MV Act'), dissatisfied with the award of Rs.56,000/- by the learned Chairman, Motor Accidents Claims Tribunal - cum - V Additional District Judge (III Fast Track Court), Nalgonda, at Miryalguda, through the order and decree, dated 01.06.2006, as against their claim of Rs.2,00,000/-, laid under Section 166 read with Section 140 of the Motor Vehicles Act, 1988 (for short 'the Act'), seeking enhancement of compensation.

2. Originally, one Chinthala Chakraiah filed the claim petition seeking compensation for the injuries he sustained in a road accident. During the pendency of claim petition, since Chinthala Chakraiah died, his wife and major sons came on record as his legal representatives and prosecuted the claim petition and thus, the decree was passed in their favour partly allowing the claim petition against respondent Nos.1 and 2, who are owner and insurer, respectively, of the auto-rickshaw bearing No.AP-24-U-8517 that involved in the accident.

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 fact-situation leading to the deceased sustaining injuries and succumbing to the injuries in a road accident is not in dispute.

5. Heard Sri P. Kiran, learned counsel for the petitioners (appellants), and Sri Palle Nageswar Rao, learned counsel for the insured (respondent No.1) and Sri V. Sambasiva Rao, learned counsel for the insurer (respondent No.2).

6. Perused the order and decree under challenge and the material on record.

7. Before the Tribunal, wife of the Chinthala Chakraiah, who sustained injuries in the accident and died during pendency of the claim petition, examined herself as PW.1 and one Bandi Prasad as PW.2, an eye-witness to the accident, and marked Exs.A-1 to A-7. On behalf of the insurer, no witnesses were examined.

8. The Tribunal having observed that no iota of evidence was let in by the petitioners to show that the original petitioner, Chinthala Chakraiah, who sustained injuries in the accident and died during pendency of the claim petition, became permanently disabled, opining that the petitioners could be compensated on ad-hoc basis for the injuries sustained by the original petitioner, granted Rs.5,000/- per grievous injury and Rs.10,000/- per fracture and thus, granted Rs.15,000/- towards loss of future earnings as the original petitioner sustained a fracture and a grievous injury. Further, the Tribunal granted a sum of Rs.6,000/- at the rate of Rs.2,000/- per month for a

period of three (3) months, towards loss of earnings during treatment period which is towards loss of temporary/past earnings. Besides the same, a sum of Rs.25,000/- was granted towards medical expenses covered by Ex.A-7 bills issued by Kamineni Hospital.

9. Since the original petitioner, Chinthala Chakraiah died during pendency of the claim petition, though, his legal representatives prosecuted the claim, certainly, towards pain and suffering of the original petitioner, no amount can be awarded. However, as can be seen from ExA-7 medical record, the original petitioner spent Rs.36,114-69 paise towards medical expenses, but the Tribunal, somehow, restricted it to Rs.25,000/-. The petitioners are entitled to the entire amount of Rs.36,114.69 paise, which is rounded off to Rs.36,115/-, as against Rs.25,000/- and accordingly granted the same since the Tribunal did not discard medical bills. Thus, the petitioners are entitled to Rs.11,115/- additionally.

10. Thus, the petitioners are entitled to a total amount of Rs.67,115/-/- (Rupees sixty seven thousand and one hundred and fifteen only) as against Rs.56,000/- granted by the Tribunal and the same is accordingly granted which shall be apportioned among the petitioners as directed by the Tribunal.

11. So far as rate of interest at 7.5% per annum, granted by the Tribunal, is concerned, the same is maintained on the enhanced compensation also, in view of the decision of the Hon'ble Supreme

Court in **Rajesh v. Rajbir Singh**¹, from the date of petition till realization.

12. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the order under challenge by enhancing the compensation, as indicated above. There shall be no order as to costs.

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

July 20, 2016.

PV

A. SHANKAR NARAYANA, J

¹ 2013ACJ1403 = 2013(4)ALT35

