

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1639 OF 2009

JUDGMENT:

Seeking enhancement of compensation on the ground that the amount of Rs.63,000/- granted by the order and decree, dated 28-02-2005, in O.P. No.1033 of 2001, on the file of the Chairman, Motor Accident Claims Tribunal - cum - III Additional District Judge (Fast Track Court), Nalgonda (for short 'the Tribunal'), as against the claim of Rs.1,00,000/- laid under Section 166 read with 140 of the Motor Vehicles Act, 1988 (for short 'the Act'), was meager when compared with the nature of injuries sustained by the petitioner and the great inconvenience to which he was put, the present appeal is preferred under Section 173 of the Act by the petitioner.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2, who are owner and insurer of Matador Van bearing registration No.AP 16U 6591, respectively, are respondents as such in the OP before the Tribunal.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the OP.

4. The fact-situation occurring in the instant case, the manner in which the accident has occurred and the injuries sustained by the

petitioner are not in dispute. Therefore, there is no need to advert the facts.

5. Heard Sri M. Madhava Reddy, learned counsel for the appellant - petitioner, and Sri G. Vishweswar Reddy, learned standing counsel for respondent No.2 - Insurer. Respondent No.1 though, served with notice, none appears for him.

6. A short question that arises for consideration is:

Whether the compensation granted by the Tribunal is just and adequate satisfying the norms provided by the relevant provisions under the Statute, and in case if it is not so, to what amount the petitioner is entitled to, towards enhancement?

7. The evidence of doctor examined as PW.2 and the wound certificate marked as Ex.A-3 would clearly indicate that the petitioner sustained fracture of right femur, fracture of right knee and fracture of ankle (M-1/3rd) and the head injury and he was shifted immediately to Kamineni Hospital at Narketpally, and after first-aid being given, he was again referred to Osmania General Hospital at Hyderabad, where he was treated as in-patient from 15-12-2000 to 18-01-2001, thus, more than a month, he was in-patient. Though, he claimed that he spent Rs.30,000/- towards medical expenses, nothing is forthcoming by way of documentary evidence. However, the Tribunal granted Rs.15,000/- towards treatment and medicines.

8. Be that as it may, when looked at the nature of injuries sustained by the petitioner and the great inconvenience to which he was put during recovery period, certainly, the amount of Rs.15,000/- per injury granted by the Tribunal is on lower side, as no distinct amount is granted towards pain and suffering. Therefore, put together, a sum of Rs.60,000/- is granted including pain and suffering.

9. The amount of Rs.15,000/- granted towards treatment and medicines is based on Ex.A-5 and, therefore, the same is maintained. No amount is granted towards extra nourishment. Therefore, a sum of Rs.5,000/- is granted under the said head. The amount of Rs.3,000/- granted towards loss of temporary earnings for two months is enhanced to Rs.9,000/- keeping in view, that for six months he would not have become well. Towards transport charges and attendant charges, a sum of Rs.5000/- is granted. Thus, in all, the petitioner is entitled to Rs.94,000/- as compensation as against Rs.63,000/- granted by the Tribunal.

10. Concerning the rate of interest, the Tribunal awarded at 9% per annum on Rs.63,000/-, the same is maintained. But on enhanced amount of Rs.31,000/- at 7.5% per annum is granted in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

¹. 2013 ACJ 1403

11. In the result, the appeal is allowed in part, and the order and decree, dated 28-02-2005, in O.P. No.1033 of 2001, passed by the Tribunal are modified enhancing the compensation to Rs.94,000/- (Rupees ninety four thousand) from Rs.63,000/- with interest at 9% per annum on Rs.63,000/- granted by the Tribunal and at 7.5% per annum on the enhanced amount of Rs.31,000/- (Rupees thirty one thousand) from the date of petition till realization. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

August 23, 2016.
Mgr

