

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. No.1138 OF 2009

JUDGMENT:

The instant Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), is preferred by the petitioner seeking enhancement of compensation aggrieved of the compensation of Rs.34,465/- granted by the learned Chairman, Motor Accidents Claims Tribunal - cum - XIV Additional Chief Judge, Fast Track Court, City Civil Court, Hyderabad, through the order and decree, dated 09.10.2007, in M.V.O.P. No.1142 of 2006, as against the claim of Rs.1,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988.

2. The appellant herein is petitioner in the O.P. before the Tribunal, while respondent Nos.1 and 2, who are owner and insurer, respectively, of the lorry bearing No.HR - 55 - B - 3004 that involved in the accident, are respondent Nos.1 and 2 respectively.

3. For the sake of convenience, the parties are hereinafter referred to as arrayed in the O.P. before the Tribunal.

4. There is no dispute as to the manner in which the accident has taken place. The dispute is with regard to quantum of compensation alone. The petitioner claimed that the amount granted by the Tribunal is very meager despite the sufferance undergone by

her has been projected through Ex.A-6 and, therefore, sought to grant the balance amount.

5. Heard Sri G. Narender Raj, learned counsel for the petitioner (appellant), and Sri R.K. Suri, learned counsel for the insurer (respondent No.2).

6. It is mentioned in the cause title of the appeal itself that respondent No.1 is not a necessary party as he remained *ex parte* even before the Tribunal.

7. A perusal of Ex.A-5, bunch of medical bills, would show that the petitioner got treated in BBR Multi Speciality Hospital having sustained injuries on forehead, right elbow and both legs, and medico legal case was registered as could be found from Ex.A-6, certified copy of the Medico Legal Case Register. She was admitted in the said hospital on 09.10.2005 and left the hospital against the medical advice on the same day and readmitted on 17.10.2005 and discharged on 24.10.2005 having undergone surgical intervention on 18.10.2005 which being draining out of haematoma collected in both knees under anesthesia.

8. Thus, when kept in view, the amount of Rs.3,000/- granted by the Tribunal for the above injuries and the sufferance the petitioner has undergone, certainly, it is on lower side, and, therefore, the same is enhanced to Rs.15,000/-. The amount of Rs.5,000/- granted by the Tribunal towards pain and suffering is enhanced to Rs.10,000/-.

Though, the injuries are described as simple in nature, keeping in view the procedures involved for treatment, the amount of Rs.17,325/- granted towards medical expenses is maintained since it is based on medical bills and other documentary evidence. The amount of Rs.6,000/- granted by the Tribunal at the rate of Rs.3,000/- per month for a period of two (2) months towards temporary loss of earnings is also maintained. The amount of Rs.2,000/- granted by the Tribunal towards extra-nourishment is also maintained. The amount of Rs.1,140/- granted towards transport expenses is since based on drivers' receipts, the same is also maintained.

9. Thus, the petitioner is entitled to a total compensation of Rs.51,465/- (Rupees fifty one thousand four hundred and sixty five only) as against Rs.34,465/- awarded by the Tribunal, and the same is accordingly awarded. The rate of interest granted by the Tribunal at 7.5% per annum from the date of petition till realisation is maintained on the entire compensation since the same is in accordance with the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**¹. The enhanced compensation shall be apportioned between the petitioners as directed by the Tribunal.

10. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the order and decree under challenge 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.

A. SHANKAR NARAYANA, J

August 11, 2016.

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¹ 2013ACJ1403 = 2013(4)ALT35

