

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

M.A.C.M.A.No.2259 of 2005

JUDGMENT:-

Feeling dissatisfied with the amount of Rs.38,000/- granted as compensation for the injuries sustained by the petitioner as against the claim of Rs.1,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') by the order dated 22.05.2004 in O.P.No.904 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short, 'the Tribunal'), the instant appeal is preferred seeking enhancement of compensation.

2. The appellant herein is the petitioner while respondent Nos.1 and 2, who are the owner and insurer of the accident vehicle respectively, are the respondents in the original petition.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts, in brief, are that the petitioner claims that he was working as a Helper in Prince Private Limited, Rasoolpura, Secunderabad on a monthly salary of Rs.3,000/-. On 19.4.2001, at about 6.00 P.M., when he was proceeding on a Hero Punch bearing No.AP 10 M 418 along with his friend and reached near N.T.R. Statue, the driver of a Maruti Car bearing No.AP 16H 16 came from Begumpet at high speed and rash and negligent manner and hit the petitioner's vehicle due to which, the petitioner received grievous injuries. He was shifted to Gandhi Hospital where he underwent treatment for the fractures sustained by him. Therefore, the petitioner claimed an amount of Rs.1,50,000/- as compensation.

5. Respondent No.1-owner of the accident did not contest the matter and remained *ex parte*. Respondent No.2-insurer opposed the

claim by filing a counter.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry, the petitioner examined himself as P.W.1 besides examining one C.S.S.Murthy as P.W.2 and marked Exs.A.1 to A.6 to substantiate his claim. On behalf of respondent No.2, no witnesses were examined, but copy of the insurance policy was marked as Ex.B-1 with consent.

7. The Tribunal, on appraisal of evidence, both, oral and documentary, let in by the petitioner, held issue No.1 in favour of the petitioner; and on issue No.2, the Tribunal, taking into consideration the grievous injuries due to fractures, granted a sum of Rs.25,000/- towards pain and suffering, Rs.2,000/- towards medical expenses, Rs.6,000/- towards temporary loss of income, Rs.5,000/- towards extra nourishment, transportation charges and other miscellaneous expenses and thus, granted a total sum of Rs.38,000/- with interest at 6% per annum from the date of petition till the date of realization.

8. It is the aforesaid order which is under challenge in the instant appeal by the petitioner seeking enhancement of compensation contending in the grounds that the Tribunal has granted less compensation towards medical expenditure even though the petitioner sustained fractures to his bones and the Tribunal has not granted any amount towards attendant charges and thus, the amount granted by the Tribunal is on lower side and therefore, prayed to grant the balance amount.

9. Heard Sri V. Atchuta Ram, learned counsel for the appellant-claimant, and Sri A.Ramakrishna Reddy, learned counsel for respondent No.2.

10. Perused the order under challenge and the evidence on record both, oral and documentary let in by the petitioner.

11. The evidence on record would show that the petitioner was

admitted in the Gandhi Hospital on 19.4.2001 and discharged on 26.4.2001. He underwent surgical intervention on 24.4.2001 for fractures to his both legs. The description is also mentioned in Ex.A-2. Keeping in view, that the petitioner had to undergo great inconvenience on account of fracture to one of his lower limbs, the amount of Rs.25,000/- towards pain and suffering is to be increased to Rs.30,000/-. The amount of Rs.2,000/- granted by the Tribunal towards medical expenses is maintained since no medical bills are forthcoming except Ex.A-3, which is for only Rs.133/-. Towards loss of temporary earnings, Rs.6,000/- granted by the Tribunal is enhanced to Rs.12,000/- keeping in view that atleast for six months, the petitioner would not have been able to attend to his avocation. The amount of Rs.5,000/- granted by the Tribunal towards extra nourishment, transportation and other miscellaneous expenses is enhanced to Rs.10,000/- treating the amount towards extra nourishment alone. The Tribunal has not awarded any amount towards attendant charges. Therefore, a sum of Rs.9,000/- is awarded keeping in view that the petitioner would have required assistance for nearly six months. Towards transportation and other miscellaneous charges, Rs.2,000/- is awarded. Thus, the petitioner is totally entitled to Rs.65,000/- as against Rs.38,000/- granted by the Tribunal. The Tribunal has granted interest at 6% per annum and the same is enhanced to 7.5% per annum from the date of petition till the date of realization in view of the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1].

12. Accordingly, the instant appeal is partly allowed modifying the order passed by the Tribunal, by enhancing the compensation and the rate of interest, as indicated above. There shall be no order as to costs.

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

JUSTICE A.SHANKAR NARAYANA

Date: 20.01.2016
AMD

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[\[1\]](#) 2013 ACJ 1403 = 2013 (4) ALT 35