

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2493 OF 2009

JUDGMENT:

The present Civil Miscellaneous Appeal is preferred seeking enhancement of compensation by the petitioner in O.P. No.23 of 2005 as the learned Chairman, Motor Accidents Claims Tribunal - cum - District Judge, Adilabad (for short 'Tribunal') granted a meager sum of Rs.4,600/- through the order and decree, dated 25.06.2008, as against the claim of Rs.50,000/- laid under Sections 166 and 163-A of the Motor Vehicles Act, 1988 (for short 'the Act').

2. Heard Sri S. Surender Reddy, learned counsel for the appellant - petitioner.

3. No representation for respondent No.2, who is insurer of the Bolero Jeep that involved in the accident.

4. Respondent No.1 - owner of the Bolero Jeep bearing No.AP-15-V-6222 that involved in the accident, though, served with notice, did not choose to appear.

5. So far as respondent Nos.3 and 4 are concerned, who are owner and insurer, respectively, of the auto-rickshaw bearing No.AP-1-U-6421, it is mentioned in the cause title of the grounds of appeal itself that they are formal parties and hence not necessary parties.

6. Learned counsel for the appellant would submit that the Tribunal granted a meager compensation, though, according to the petitioner she lost one teeth and dislocation of four (4) teeth, and, therefore, sought to grant higher compensation.

7. Perused the order and decree under challenge and also the evidence on record.

8. The Tribunal has recorded a categorical finding that Ex.A-7 wound certificate filed by the appellant clearly indicates that she sustained four (4) simple injuries, but no grievous injury at all and the assertion she made that she lost one teeth and dislocation of four (4) teeth is not reflected in Ex.A-7; it also observed that the appellant did not examine the Orthopaedic Surgeon of Surya Hospital, Godavarikhani, where she alleged to have taken treatment and when the medical officer is not examined from the said hospital and considering Ex.A-7, which is wound certificate issued by the Government Hospital, Mancheri, opined that it was difficult to view that the petitioner did sustain grievous injuries. However, since the Tribunal has granted Rs.12,00/- towards pain and suffering for each simple injury, the same is enhanced to Rs.3,000/-, making a total sum of Rs.12,000/- towards pain and suffering; the other amounts of Rs.500/- each granted by the Tribunal towards medical expenses and transport charges are maintained.

9. Thus, the petitioner is entitled to a total compensation of Rs.13,000/- (Rupees thirteen thousand only) as against Rs.4,600/- awarded by the Tribunal, and the same is accordingly granted maintaining the rate of interest granted by the Tribunal at 7.5% per annum on the entire compensation, which includes enhanced compensation, since the same is in accordance with the rate of interest granted by the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

10. Accordingly, the Civil Miscellaneous Appeal is allowed modifying the impugned order and enhancing the compensation, as indicated above. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

November 2, 2016.

PV

2. 2013ACJ1403 = 2013(4)ALT35