

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. Nos.1321 AND 1322 OF 2009

COMMON JUDGMENT:

Since both the matters arise out of one and the same accident and the respondents are common, these appeals are disposed of by this common judgment.

2. Both these Civil Miscellaneous Appeals arise out of different orders and decrees, dated 06.12.2005 in O.P. No.1520 of 2002 and dated 22.06.2005 in O.P. No.1519 of 2002, respectively, passed by the learned Chairman, Motor Accidents Claims Tribunal - cum - VI Additional District Judge, (Fast Track Court), Kama Reddy, Nizamabad District, granting Rs.43,000/- and Rs.12,000/-, respectively, as compensation for the injuries sustained by the respective petitioners, who are appellants herein seeking enhancement of compensation on the ground that meager compensation was granted by the Tribunal.

3. The respective appellants are petitioners in the respective O.Ps. before the Tribunal, while respondent No.1 and 2 in both the appeals, who are owner and insurer, respectively, of the autorickshaw bearing No.AP-25-T-9359 that involved in the accident, are respondent Nos.1 and 2, respectively.

4. The fact-situation is not disputed and so also the

petitioners sustaining injuries as shown in Ex.A-3, in both the matters, issued by Gandhi Hospital, Secunderabad.

5. In the former appeal, the petitioner sustained as many as eleven (11) simple injuries, for which, an amount of Rs.33,000/-, at Rs.3,000/- each, was granted besides granting Rs.10,000/- towards pain and suffering. In the latter appeal, the petitioner sustained three simple injuries and for the same, an amount of Rs.9,000/- was granted at Rs.3,000/- for each injury besides Rs.3,000/- towards pain and suffering.

6. Thus, the Tribunal has granted compensation of Rs.43,000/- in the former appeal and Rs.12,000/- in the latter appeal which are challenged in the instant appeals by the respective petitioners on the ground that the compensation granted was very meager and sought to enhance the same.

7. Heard Sri Venkateshwar Varanasi, learned counsel for the appellants (petitioners), and Sri A. Ramakrishna Reddy, learned counsel for respondent No.2 - insurer, in both the appeals.

8. Despite service of notice on respondent No.1, owner of the auto-rickshaw that involved in the accident, none appears on his behalf. However, since he remained *ex parte* even before the Tribunal and suffered the decree

jointly and severally, he is liable to pay compensation.

9. A perusal of the orders under challenge in both the appeals, in fact, would not suffer from any legal infirmity, as, for each simple injury, a sum of Rs.3,000/- is rated and for pain and suffering, keeping in view, the number of injuries sustained by the respective petitioners, proportionately, amount was awarded.

10. The only question is whether any amount can be awarded towards transportation charges?

11. In the former appeal, since the petitioner was treated in Gandhi Hospital, Secunderabad, having travelled from Medak District, certainly, he is entitled to a sum of Rs.5,000/- more. In the latter case, since the petitioner was treated at Medak only, he is granted a sum of Rs.1,000/- towards transport charges. Thus, the compensation is enhanced to Rs.5,000/- and Rs.1,000/- in the respective appeals.

12. Thus, the petitioner in the former appeal is entitled to an amount of Rs.48,000/- (Rupees forty eight thousand only) as against Rs.43,000/-, and the petitioner in the latter appeal is entitled to Rs.13,000/- (Rupees thirteen thousand only) as against Rs.12,000/- granted by the Tribunal, and the same are accordingly granted.

13. So far as rate of interest at 9% per annum

granted by the Tribunal is concerned, the same is maintained on the compensation granted by the Tribunal, however, on the enhanced compensation, the rate of interest is fixed at 7.5% per annum, in view of the decision of the Hon'ble Supreme Court in **Rajesh v. Rajbir Singh**^[1], from the date of petition till realization.

14. Accordingly, both the Civil Miscellaneous Appeals are allowed in part modifying the orders 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 these appeals stand disposed of.

A. SHANKAR NARAYANA, J

July 27, 2016.

PV

^[1] 2013ACJ1403 = 2013(4)ALT35