

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.1537 of 2009

JUDGMENT:

Assailing a portion of order and decree, dated 17.12.2007, in O.P.No.541 of 2005, passed by the Chairman, Motor Accident Claims Tribunal-cum-IV Additional District Judge (F.T.C), Nizamabad, concerning awarding an amount of Rs.78,000/- towards loss of earnings, out of the total compensation of Rs.1,10,000/- granted under various heads, the Insurance Company – respondent No.2 preferred the instant appeal.

2. The appellant herein is respondent No.2, while respondent Nos.1 and 2, who are the injured and owner of the Maruthi car bearing registration No.AP 10 J 619, respectively, were the petitioner and respondent No.1, respectively, in the original petition.

3. Heard Sri T.Ramulu, learned Standing Counsel for the appellant – Insurance Company, and Sri P.Radhive Reddy, learned counsel for respondent No.1 – petitioner. Though service was completed on respondent No.2, none appears for him.

4. Learned Standing Counsel for the appellant would submit that the petitioner, who examined himself as P.W.1, in his cross-examination, has given positive answer that he did not suffer any

monetary loss and, in fact, his pay is increased and he is getting more salary subsequent to accident and, therefore, the Tribunal was not justified in awarding Rs.78,000/- towards loss of earnings, by taking into account 10% partial permanent disability, in regard to which no certificate at all was issued, except the evidence of P.W.2, the Medical Officer examined on commission.

5. On the other hand, the learned counsel for respondent No.1 – petitioner would submit that the amount of Rs.5,000/- granted by the Tribunal towards pain and suffering is very meager and, in fact, the petitioner availed leave for a considerable period, for which no amount at all was awarded and, thus, supported the order and decree passed by the Tribunal.

6. The main dispute is with regard to the amount awarded under the head 'loss of earnings'. At the outset, it is to be observed that the amount awarded by the Tribunal is just and adequate satisfying statutory requirements, for the main reasons, firstly, the Tribunal granted a very meager sum of Rs.5,000/- towards pain and suffering, without taking into account the nature of injury as such and the part on which the injury was caused and also the inconvenience, to which the petitioner was put to, as could be visualized from the fact that he was forced to avail 177 days leave, and secondly, that the Tribunal has not granted any amount to compensate the availment of

leave of 177 days, though, the leave proceedings have been filed and marked as Ex.A8, showing that the petitioner initially availed commuted leave from 07.07.2004 to 25.09.2004, for which 160 days were debited to the said leave account, and continued the leave by again getting sanctioned earned leave for 97 days i.e., from 26.09.2004 to 30.12.2004. When kept in view, these circumstances, certainly, the amount of Rs.1,10,000/- granted by the Tribunal is just and reasonable, even though, an amount of Rs.78,000/- was granted towards loss of earnings on account of 10% partial permanent disability, as the same can be viewed as the amount towards compensating meager amount granted towards pain and suffering and the leave, the petitioner was forced to avail, as mentioned above. Thus, there is no merit in the appeal.

7. Accordingly, the appeal is dismissed, confirming the order and decree passed by the Tribunal in all respects, including the rate of interest.

8. Miscellaneous petitions, if any pending in the instant appeal, shall stand closed. There shall be no order as to costs.

JUSTICE A.SHANKAR NARAYANA

12.08.2016

v v