

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.1070 OF 2009

JUDGMENT:

For the injuries sustained by the petitioner in O.P.No.991 of 2005 on the file of Chairman, Motor Accidents Claims Tribunal – cum – I Additional District Judge, Nizamabad, in a road accident that took place on 30.12.2004 at about 08:30 AM, near Komatolla Bavi on Atmakoor Road, while he was riding motor bike bearing registration No.AP-25-C-7937, being hit by an R.T.C. bus bearing registration No.AP-09-Z-9952 belonging to the respondent – Corporation driven by its driver in a rash and negligent manner, due to which, he sustained fracture to the right leg and left hand and other injuries to his person, the Tribunal, by its order, dated 02.02.2009, awarded compensation of Rs.34,000/- as against the claim of Rs.2,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988, and aggrieved by the same, the present appeal is preferred by the petitioner on the ground that the amount granted by the Tribunal was very meagre and the Tribunal has not properly appreciated the evidence on record and overlooked what has been asserted by PW.2, Medical Officer, who treated PW.1, and thereby, sought to grant the balance amount.

2. Heard Sri Ch. Janardhan Reddy, learned counsel for the

3. Perused the order under challenge and the evidence on record.

4. Though, PW.2 – Medical Officer, who issued Ex.A11 – Disability Certificate, assessed the percentage of disability as 45%, which is permanent partial disability, but in view of the answer given by him in the cross-examination that he was not qualified to assess the disability without radiologist's report and, since, the radiologist's report is not filed, the finding recorded by the Tribunal excluding Ex.A11 and the evidence of PW.2 to that effect, is on proper lines and does not warrant any interference.

5. Now, coming to the amounts granted by the Tribunal, in order to assess whether the amount of compensation granted by the Tribunal is just and adequate, it is not in dispute that the appellant sustained fracture to right tibia and fibula, and two other simple injuries, as per the contents in Ex.A3. He even has undergone surgical intervention on 05.05.2005 for 'V' nailing and bone grafting, but it appears that he subsequently developed some sort of infection, and the Doctor admitted in his cross-examination that the infection was on account of negligence of the appellant himself.

enhanced to Rs.15,000/-. Since, no amount is granted towards extra nourishment, an amount of Rs.5,000/- is granted. The amount of Rs.5,000/- granted towards 'V' nailing and bone grafting is maintained. Towards transportation and attendant charges, no amount is granted. Since the appellant sustained fracture to one of his lower limbs, a sum of Rs.6,000/- is granted. Towards loss of earnings, no amount is awarded by the Tribunal. Keeping in view, that the appellant would have attained normalcy only after four months, at the rate of Rs.2,000/- per month, a sum of Rs.8,000/- is granted. Thus, the appellant is totally entitled to Rs.64,000/- as against Rs.34,000/- granted by the Tribunal.

7. So far as interest is concerned, the Tribunal has granted the same at 7.5% per annum. The same rate of interest is maintained on the enhanced amount also, in view of the decision of the Honourable Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

8. Accordingly, the appeal is allowed in part enhancing the compensation from Rs.34,000/- to Rs.64,000/- with interest at 7.5% per annum. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.