

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.1549 OF 2009

JUDGMENT:

Feeling dissatisfied with the award of Rs.39,500/- as compensation with interest at 7.5% per annum by order and decree, dated 14.09.2005, in O.P.No.1391 of 2001 on the file of Chairman, Motor Accidents Claims Tribunal – cum – IV Additional District Judge (Fast Track Court), Nizamabad, for one grievous injury and two simple injuries sustained by the appellant – petitioner in a road accident that took place on 08.06.2001 at about 11:00 AM near Mailaram Cross Roads at a distance of one kilometre towards East from P.S. Sirikonda Mandal, Nizamabad District, the present appeal is preferred, seeking enhancement of compensation.

2. Heard Sri Venkateshwar Varanasi, learned counsel for the appellant.

3. It is recorded in the cause title of the appeal that respondent No.1 – owner of the tractor that involved in the accident is not a necessary party. No representation for respondent No.2 – Oriental Insurance Company Limited.

4. The Tribunal declined to accept the evidence of PW.2 – Dr. V. Akhilesh, who was examined on commission, assigning reason in paragraph No.17 of the order under challenge that earlier it has

observed the attitude of PW.2 that he was in the habit of issuing disability certificate even without treating the patient, and it even further pointed out some sort of inconsistency between the documentary evidence filed by the appellant and the evidence of PW.2. It also disbelieved that the appellant is having bilateral sciatica with neurologic claudication, as spoken to by PW.2, since the contents in Ex.A3 – injury certificate do not show the history of sciatica. The Tribunal, thus, while discarding the evidence of PW.2 and permanent disability assessed by him at 40%, taking into consideration the injuries shown in Ex.A3, granted Rs.5,000/- for the grievous injury and Rs.2,000/- for the two simple injuries, besides granting Rs.10,000/- towards medical expenses, Rs.6,500/- towards loss of leave for one month, Rs.10,000/- towards pain and suffering and Rs.6,000/- towards transportation and extra nourishment, thus, making a total of Rs.39,500/-.

5. Since the amount of Rs.5,000/- granted by the Tribunal towards the grievous injury being abrasion 1" x 1" lumber region and wedge compression of L1, described in Ex.A3 – injury certificate issued by the Government Hospital, Nizamabad, by any standard, is on lower side, the same is enhanced to Rs.25,000/-. Towards two simple injuries, the amount of Rs.2,000/- granted by the Tribunal is enhanced to Rs.6,000/-. The amount of Rs.10,000/- granted towards medical expenses, basing on the bills issued by the Yashoda Hospital,

and the amount of Rs.6,500/- granted towards loss of leave for one month are maintained and so also, the amount of Rs.10,000/- granted towards pain and suffering. However, the amount of Rs.6,000/- granted towards transportation and extra nourishment, since, on lower side, the same is enhanced to Rs.12,000/-. Thus, the appellant is entitled to Rs.69,500/- towards compensation as against Rs.39,500/- granted by the Tribunal.

6. Since the rate of interest awarded by the Tribunal at 7.5% per annum is in accordance with the interest awarded by the Honourable Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹, the same is maintained on the enhanced amount also.

7. Accordingly, the appeal is allowed in part enhancing the compensation from Rs.39,500/- to Rs.69,500/- 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.

A. SHANKAR NARAYANA, J

September 07, 2016.
MD

¹ (2013) 9 SCC 54