

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1835 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.19,500/- as compensation by the order dated 11.02.2009 in O.P. No.457 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge (Fast Track Court), Nizamabad (for short, 'the Tribunal') as against the claim of Rs.2,00,000/- laid under Section 166(1)(a) of the Motor Vehicles Act, 1988 (for short, 'the Act') read with the Rules framed thereunder, for the injuries sustained by the appellant-petitioner in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2 herein, who are the owner and insurer of the bus bearing registration No.AP 25V 0151, are respondent Nos.1 and 2, respectively, in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The fact-situation occurring in the instant case is not in dispute including the manner in which the accident did take place. The only dispute is in regard to the amount awarded by the Tribunal.

5. Heard Sri M.Rajamalla Reddy, learned counsel for the appellant-petitioner, and Dr. Challa Srinivasa Reddy, learned Standing Counsel for respondent No.2-Insurance Company. Though, service was completed on respondent No.1, none appears for him.

6. Learned counsel for the petitioner would submit that the amount of Rs.15,000/- towards two grievous injuries is too meager and even the amounts of Rs.2,000/- towards pain and suffering and Rs.2,000/- loss of dependency are on lower side and seeks enhancement. Whereas, the learned Standing Counsel for respondent No.2-Insurance Company, would submit that the amount awarded by the Tribunal is just and adequate when kept in view the nature of injuries sustained by the petitioner.

7. Ex facie, the order under challenge shows that the amount granted by the Tribunal is on lower side. The first injury is swelling and deformity of the right collar bone, fracture of right clavicle, which would cause considerable inconvenience to the petitioner. Of course, the second injury is swelling and pain and the fracture of the fifth metacarpal bone of right hand, which would cause much inconvenience to the petitioner. Be that as it may, the amount of Rs.15,000/- granted by the Tribunal for two grievous injuries is enhanced to Rs.35,000/-, i.e., Rs.25,000/- towards first injury and Rs.10,000/- towards second injury including pain and suffering towards which the Tribunal has granted Rs.2,000/-.

8. The Tribunal has granted Rs.2,000/- towards loss of dependency. Learned Standing Counsel for respondent No.2- Insurance Company would submit that the petitioner started attending his work after discharge from the hospital. In such a case, the amount of Rs.2,000/- granted by the Tribunal is maintained. However, towards extra nourishment, no amount is granted by the Tribunal. Keeping in view, the two grievous injuries, a sum of Rs.5,000/- is granted towards extra nourishment. The amount of Rs.500/- granted by the Tribunal towards transport charges is maintained.

9. Thus, the petitioner is entitled to a total sum of Rs.42,500/- (Rupees forty two thousand and five hundred) as against Rs.19,500/- granted by the Tribunal towards compensation and the same is accordingly granted. So far as the rate of interest is concerned, the Tribunal granted the same at 7.5% per annum and the same is maintained on the entire amount of compensation in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

10. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

¹ 2013 ACJ 1403

11. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

2nd September, 2016

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