

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1833 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.20,000/- as compensation by the order dated 13.04.2009 in O.P. No.1778 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge (Fast Track Court), Nizamabad (for short, 'the Tribunal') as against the claim of Rs.3,00,000/- 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 tractor bearing registration No.AP 25D 8190, 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. There is no need to refer to the factual aspect, as it is not the appeal preferred by the Insurance Company.

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

6. The Medical Officer-Dr. R.Bhupathi Reddy was examined as P.W.2. According to him, the petitioner sustained fracture of left femur and the fracture of both bones of left leg. It is not in dispute that the petitioner was initially admitted in Government Headquarters Hospital, Nizamabad and the medical certificate was issued by one Dr. Ramulu. In fact, against the said Dr. Ramulu, certain comments were made by this Court as well as the Tribunal in other matters, where he figured as doctor, touching the disability certificates issued by him and the treatment he alleged to have given to the injured. Therefore, the only two injuries, in regard to which P.W.2 has spoken, can be taken into consideration. The Tribunal having accepted the said injuries, granted Rs.5,000/- towards fracture of femur left side and Rs.10,000/- towards fracture of both bones of left leg and for two simple injuries, Rs.2,000/-, i.e., at the rate of Rs.1,000/- per injury, Rs.2,000/- towards pain and suffering and extra nourishment and Rs.1,000/- towards transport charges. Thus, a total compensation of Rs.20,000/- was awarded by the Tribunal with interest at 7.5% per annum.

7. When the Medical Officer's evidence is forthcoming, supporting the fractures sustained by the petitioner, as mentioned in

the above, certainly, the amounts granted by the Tribunal are on lower side. Therefore, for the first injury, the amount of Rs.5,000/- granted by the Tribunal is enhanced to Rs.15,000/-. For the second injury, which is fracture of both bones of left leg, the amount of Rs.10,000/- is enhanced to Rs.25,000/-. The amount of Rs.2,000/- for the two simple injuries, i.e., at the rate of Rs.1,000/- per injury, is enhanced to Rs.6,000/-, i.e., at the rate of Rs.3,000/- per injury. The amount of Rs.2,000/- granted by the Tribunal towards pain and suffering and extra nourishment is enhanced to Rs.5,000/-. The amount of Rs.1,000/- granted by the Tribunal towards transport charges is maintained. Since one of the lower limbs was effected, keeping in view, that the petitioner needed an attendant, towards attendant charges, a sum of Rs.6,000/- is awarded under the said head. Towards loss of earnings, a sum of Rs.12,000/- is granted, as atleast for six months, he would not have been in a position to attend to his normal activities on his own.

8. Thus, the petitioner is entitled to a total sum of Rs.70,000/- (Rupees seventy thousand) as against Rs.20,000/- granted by the Tribunal towards compensation and the same is accordingly awarded. 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.

¹ 2013 ACJ 1403

9. 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.

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

A. SHANKAR NARAYANA, J

21st October, 2016

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