

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.1052 of 2009

JUDGMENT:

On the ground that a meagre compensation of Rs.17,000/- was granted, for the injuries sustained by him in a road accident, as against the claim of Rs.70,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the order dated 27.04.2007 in O.P.No.454 of 2004 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge (FTC), West Godavari, Eluru, the petitioner-claimant preferred the instant appeal under Section 173 of the Act, seeking enhancement of compensation.

2. The fact-situation occurring in the instant case is not in dispute. Even the injuries sustained by the petitioner, as recorded in Ex.A3, are also not in dispute. Though, a plea was taken by the Insurance Company that the petitioner was travelling as an unauthorised passenger, the Tribunal has discarded it and fastened joint and several liability on respondent Nos.1 to 3, being the driver, owner and insurer of the offending vehicle. In view of the same, there is no need to advert to narration of facts and what the Tribunal did in assessing the

compensation and awarding the same.

3. Heard Sri B.V.S.S. Balakrishna Ranjit, learned counsel for the appellant, Sri Kambhampati Ramesh Babu, learned counsel for respondent Nos.1 & 2, and Sri B.Narayana Reddy, learned counsel for respondent No.3.

4. Perused the contents of Ex.A3 and the evidence of P.W.3. Among the four injuries sustained by the petitioner, the 4th injury, which is shown as pain in the back, is considered as grievous injury, since there was fracture to L1 vertebra, which could be found from the x-ray report of AP lateral view. The Tribunal has granted Rs.5,000/- towards that grievous injury and it appears to be on lower side, when kept in view the inconvenience to which the petitioner was put at least for a considerable time. Therefore, the same is enhanced to Rs.20,000/- towards grievous injury including pain and suffering. Towards each simple injury, the Tribunal granted Rs.1,000/- and the same is enhanced to Rs.3,000/-, making a total sum of Rs.9,000/- towards three simple injuries, as against Rs.3,000/- granted by the Tribunal. The other amounts granted by the Tribunal i.e., Rs.927/- towards medical bills, Rs.3,000/- towards loss of earnings and Rs.2,000/- towards extra-nourishment, are

maintained. The amount of Rs.3,000/- granted by the Tribunal towards pain and suffering would merge in the amount of Rs.20,000/- now granted towards grievous injury.

5. Thus, the petitioner is entitled to a total compensation of Rs.34,927/-, as against Rs.17,000/- granted by the Tribunal, and the same is accordingly granted. So far as the rate of interest is concerned, as the Tribunal granted it at 7% per annum, the same is enhanced to 7.5% per annum on the entire amount awarded from the date of petition till realisation as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others.**

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

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

**JUSTICE A.SHANKAR
NARAYANA**

22.08.2016

v v