

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1594 OF 2009

JUDGMENT:

Dissatisfied with the award of Rs.80,000/- as compensation for the grievous injuries sustained by the petitioner, by the order and decree, dated 30-12-2006, in O.P. No.547 of 2003, on the file of the Chairman, Motor Accident Claims Tribunal - cum - IV Additional District Judge (II Fast Track Court), Nalgonda (for short 'the Tribunal') as against the claim of Rs.3,00,000/- laid under Section 166 read with 140 of Motor Vehicles Act, 1988 (for short 'the Act'), the petitioner preferred the instant appeal under Section 173 of the Act seeking enhancement.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2, who are owner and insurer of the Tata Mobile Vehicle bearing registration No.AP 28T 2019, are respondents as such in the OP before the Tribunal.

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

4. The case of the petitioner is that on 30-03-2003 at about 10.00 a.m., he was driving the jeep with

passengers towards Hyderabad on the extreme left side of the road and when it reached Gurramguda on Nagarjuna Sagar Road, a Tata Mobile bearing registration No.AP 28T 2019 coming from Hyderabad side towards Ibrahimpatnam, hit the jeep, due to which, he sustained injuries. Stating that he was treated as in-patient and undergone surgical interventions, sought a total sum of Rs.3,00,000/- laying the claim under Section 166 read with 140 of the Act.

5. Both the respondents filed separate counters opposing the claim.

6. The Tribunal having framed three issues basing on the pleadings, examined PWs.1 to 3 and marked Exs.A-1 to A-7 on behalf of the petitioner and Ex.B-1 on behalf of respondent No.2, recorded a finding in favour of the petitioner on issue No.1; and on issue No.2, granted Rs.25,000/- towards two grievous injuries and pain and suffering; Rs.15,000/- towards medical expenses, extra nourishment, transport and attendant charges; Rs.10,000/- towards future operation; Rs.25,000/- towards disability; and Rs.5,000/- towards loss of expectation of life, loss of amenities and loss of earnings and, thus, a total sum of Rs.80,000/- was granted as compensation with interest at 8% per annum *pendente lite* and at 6% per annum post award period till payment.

7. The aforesaid order is under challenge in the instant appeal preferred by the petitioner.

8. Heard Sri M. Rajamalla Reddy, learned counsel for the petitioner. No representation for respondent No.2. Though, service was completed on respondent No.1, none appears for him.

9. Perused the order and the material on record, both, oral and documentary.

10. It appears that the Insurance Company has not preferred any appeal. This being an appeal preferred by the petitioner, the finding recorded on issue No.1 need not be dealt with.

11. The short question that arises for consideration is, whether the amount granted by the Tribunal is just and adequate, and if not, whether the petitioner is entitled to what amount?

12. Admittedly, there are no violations complained by the Insurance Company as could be seen from the evidence on record. The evidence of doctors, who are examined as PWs.2 and 3, would make it clear that the petitioner sustained two grievous injuries, and the petitioner was treated as in-patient from 30-03-2003 to

05-05-2003. The injuries sustained by him as spoken to by PW.3 and described in Ex.A-2, the medico legal record, would show that the petitioner sustained the first injury to his right fore-arm and right thigh (compound Grade-III fracture of both bones of right forearm and compound Grade-III comminuted subtrochanteric fracture of right femur) for which open reduction and internal fixation of fracture of both bones of forearm right were done including skin grafting for the second injury. There is nothing to disbelieve what has been spoken to by PWs.2 and 3 in their evidence. Therefore, when kept in view, the amount of Rs.25,000/- granted by the Tribunal towards both grievous injuries since they are involved with compound grade-III fracture of both bones, the same is enhanced to Rs.60,000/- which includes pain and suffering. The other amount of Rs.15,000/- granted by the Tribunal towards medical expenses, extra nourishment and transportation and attendant charges appears to be low and, therefore, the same is also enhanced to Rs.25,000/-. Towards future operation, the Tribunal granted Rs.10,000/-, the same is maintained. Towards disability, a sum of Rs.25,000/- was awarded by the Tribunal, the same is also maintained. Towards loss of expectation of life, loss of amenities, pleasure and loss of earnings, a sum of Rs.5,000/- was awarded, but the same appears to be on lower side and, therefore, the same is

enhanced to Rs.10,000/-. Thus, the petitioner is entitled to Rs.1,30,000/- as against Rs.80,000/- granted by the Tribunal.

13. The rate of interest granted by the Tribunal at 6% per annum is enhanced to 7.5% in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[1].

14. In the result, the appeal is allowed in part, and the order and decree, dated 30-12-2006, in O.P. No.547 of 2003, passed by the Tribunal are modified enhancing the compensation to Rs.1,30,000/- (Rupees one lakh and thirty thousand) from Rs.80,000/- with interest at 8% per annum on Rs.80,000/- granted by the Tribunal and at 7.5% per annum on the enhanced compensation of Rs.50,000/- from the date of petition till realization. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

August 05, 2016.

Mgr

^[1]. 2013 ACJ 1403

