

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.1164 OF 2005

JUDGMENT:

Having got dissatisfied with the award of Rs.9,000/- as compensation, against the claim of Rs.1,00,000/-, laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by order and decree, dated 02.12.2004, in O.P.No.1588 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal – cum – V Additional District Judge, Nizamabad, the instant appeal is preferred, under Section 173 of the Act, seeking enhancement of compensation.

2. The appellant is the petitioner, whereas respondent Nos.1 and 2, who are the owner and insurer of the offending vehicle, are respondent Nos.1 and 2 in the O.P. before the Tribunal.

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

4. The facts would show that on 16.08.1999 at about 10:30 PM, while the petitioner was travelling in a jeep bearing registration No.AP-25-B-7086 from Yerrapahad to Yellareddy Village and when the jeep reached the

outskirts of Yellareddy Village, since the driver of the jeep drove it in a rash and negligent manner, it dashed the culvert, due to which, the jeep turned upside down occasioning injuries to the petitioner. He was initially treated in Government hospital and thereafter, he was shifted to a private hospital. Hence, the petitioner laid claim for Rs.1,00,000/- against respondent Nos.1 and 2, who are the owner and insurer of the offending jeep, respectively.

5. Before the Tribunal, respondent No.1 remained *ex parte*, whereas respondent No.2 – Insurance Company contested the claim.

6. Based on the said pleadings, in the direction of accounting for responsibility about the accident, the Tribunal has framed three issues. During enquiry, petitioner examined himself as PW.1 besides examining one T. Kiran Kumar and K. Seetharama Chary as PWs.2 and 3, respectively, and marked Exs.A1 to A17 to substantiate the claim laid. On behalf of respondent No.2, one T. Rajendra Sharma was examined as RW.1 and marked Ex.B1- copy of insurance policy.

7. The Tribunal, on appraisal of evidence on record, held issue No.1 in favour of the petitioner. On issue No.2, basing on the contents of Exs.A3 and A7, held that the

petitioner sustained only simple injuries and granted a sum of Rs.9,000/- as compensation with interest at 9% per annum.

8. It is the aforesaid order which is under challenge in the instant appeal on the ground that meagre compensation was granted, though the petitioner sustained lacerated wound on the left temporal region and subjected to pain and suffering, and has spent Rs.66,000/- towards treatment and therefore, sought to grant the balance amount.

9. Heard Sri Y.S. Yella Nanda Gupta, learned counsel for the appellant and Sri E. Venugopal Reddy, learned counsel for respondent No.2. The appeal was dismissed for default against respondent No.1 by order, dated 03.01.2012.

10. Perused the order under challenge and the material on record.

11. When examined Ex.A7, it is to be found that suturing was done indicating "ASD/suturing". When kept in view, the injury sustained by the petitioner to the temporal region, certainly, he might have subjected to pain and suffering and to some sort of inconvenience in attending to his job for atleast a short period. Therefore, the amount

of Rs.9,000/- granted by the Tribunal appears to be on lower side when, kept in view, the prescriptions and the amount spent towards purchase of medicines. Therefore, the same is enhanced to Rs.20,000/-. The interest awarded by the Tribunal at 9% per annum is maintained on the original amount of Rs.9,000/- awarded by the Tribunal and on the enhanced amount, the petitioner is entitled to interest at 7.5% per annum from the date of petition till realisation, as per the decision of the Honourable Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1].

12. Accordingly, the instant appeal is allowed in part. There shall be no order as to costs.

13. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

A. SHANKAR

NARAYANA, J

April 07, 2016.
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[\[1\]](#) (2013) 9 SCC 54