

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

C.M.A. No.2339 OF 2004

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JUDGMENT:

Having got dissatisfied with the award of Rs.30,000/- granted as compensation by the order and decree, dated 04-02-2002, in O.P. No.121 of 2000, on the file of the Chairman, Motor Accident Claims Tribunal – cum - I Additional District Judge, Ranga Reddy District at L.B. Nagar (for short 'the Tribunal'), as against the claim of Rs.1,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), the instant appeal is preferred by the petitioner seeking enhancement of compensation.

2. The appellant herein is the petitioner in O.P. before the Tribunal, while respondent - Andhra Pradesh State Road Transport Corporation (APSRTC), represented by its General Manager, Musheerabad, Hyderabad, is the sole respondent.

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 while the petitioner was proceeding on his bicycle from Madannapet to his

house and when he was at Royal Tent House on 25-10-1998 at 3.30 p.m., an RTC bus bearing registration No.AP 10Z 3986, driven by its driver at high speed in a rash and negligent manner came from behind and hit the petitioner, due to which, he fell down and his shoulder was broken. Immediately, he was shifted to Osmania General Hospital, Hyderabad for treatment. A case in Crime No.172 of 1998 was also registered against the driver of RTC bus initially under Section 337 IPC. The petitioner claims that he was treated as in-patient from 25-10-1998 to 04-11-1998 and he sustained three injuries amongst which one was grievous in nature. Claiming that he being labourer, unable to move and pursue his labour profession, sought a sum of Rs.1,00,000/- as compensation against the respondent.

5. Respondent Corporation filed counter resisting the claim raising various pleas.

6. Based on the pleadings, the Tribunal formulated the relevant point for consideration.

7. During inquiry before the Tribunal, the petitioner examined himself as PW.1 and marked Exs.A-1 to A-6. On behalf of respondent, no witnesses were examined and no documents were filed.

8. The Tribunal on appraisal of evidence let in by

the petitioner, though, the doctor was not examined, still, basing on the case-sheet having found that the petitioner sustained a fracture of right clavicle bone and since the petitioner was a labourer eking out his profession, a sum of Rs.20,000/- would be reasonable towards disability and pain and suffering and, accordingly, granted the same, besides granting Rs.9,000/- towards loss of temporary earnings for a period of three months and Rs.1,000/- towards medical expenses, making a total sum of Rs.30,000/- with interest at 9% per annum thereon.

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9. It is the aforesaid order which is now sought to be modified by granting balance amount by way of enhancement, as the petitioner was dissatisfied with the award of Rs.30,000/- as compensation.

10. Heard Sri D. Govardhana Chary, learned standing counsel for the appellant - petitioner, and Sri N. Vasudeva Reddy, learned standing counsel for the respondent.

11. Perused the order and the material on record, both, oral and documentary, let in by the parties.

12. The description of injuries as contained in Ex.A-2 would reflect that the petitioner sustained three injuries. However, in view of the finding recorded by the Tribunal that one of the injuries being grievous in nature, as the

petitioner sustained fracture of his right clavicle, there cannot be any doubt that the petitioner sustained a grievous injury.

13. Now, turning to what would be the just and reasonable amount, or whether the amount granted by the Tribunal can be construed as just and adequate, certainly, when kept in view, the amount of Rs.20,000/-, where the petitioner sustained one fracture and two other injuries, can be enhanced to Rs.25,000/-. The amount of Rs.9,000/- granted by the Tribunal towards loss of temporary earnings is maintained, so also the amount of Rs.1,000/- towards medical expenses. Towards extra nourishment, no amount is granted. Therefore, a sum of Rs.5,000/- is granted. Towards transport charges, no amount is granted. Therefore, a sum of Rs.2,000/- is granted. Thus, in all, the petitioner is entitled to Rs.42,000/- as compensation as against the amount of Rs.30,000/- granted by the Tribunal.

14. Concerning rate of interest, the Tribunal granted it at 9% per annum, the same is not disturbed. But, on the enhanced amount, rate of interest at 7.5% per annum is granted in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[1].

15. In the result, the appeal is allowed in part, and the order and decree, dated 04-02-2002, in O.P. No.121 of 2000, passed by the Tribunal are modified enhancing the compensation to Rs.42,000/- (Rupees forty two thousand) from Rs.30,000/- with interest at 9% per annum on the amount of Rs.30,000/- granted by the Tribunal and at 7.5% per annum on the enhanced amount of Rs.12,000/- (Rupees twelve thousand) from the date of petition till realization. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

June 10, 2016.

Mgr

[\[1\]](#). 2013 ACJ 1403