

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1680 OF 2005

JUDGMENT:

Having got dissatisfied with the amount of Rs.9,000/- granted by learned Chairman, Motor Accident Claims Tribunal - cum -

V Additional District Judge, Nizamabad (for short 'the Tribunal'), as compensation, by the order and decree, dated 24-02-2005, in O.P. No.1005 of 2000 as against the claim of Rs.1,00,000/- laid under Section 166 (1) (a) of the Motor Vehicles Act, 1988 (for short 'the Act') for the injuries sustained by the petitioner, the instant appeal is preferred under Section 173 of the Act.

2. The appellant herein is the petitioner in OP before the Tribunal, while respondent Nos.1 and 2 - the Depot Manager, Andhra Pradesh State Road Transport Corporation (APSRTC), Banswada, Nizamabad District and its Managing Director, Hyderabad, respectively, are respondent Nos.2 and 3.

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

4. The facts would show that on 04-06-1998 at

about 4.45 p.m. while the petitioner, who was aged '8' years, was crossing the road at Varni cross-road of Nizamabad town, to go to his father's Kirana stores, an RTC bus bearing registration No.AP 10Z 3229 hit him, due to which, he sustained head injury and injuries to other parts of his person. He was shifted to Government Hospital, Nizamabad and, thereafter, he had undergone treatment in a private hospital. Therefore, he sought to grant Rs.1,00,000/- as compensation.

5. Respondent Nos.2 and 3 opposed the claim by filing counter. The claim against respondent No.1 - Devi Singh was not pressed by filing a memo, dated 09-05-2002.

6. Basing on the pleadings, the Tribunal framed three issues.

7. During inquiry, PWs.1 and 2 were examined and Exs.A-1 to A-12 were marked on behalf of the petitioner. On behalf of respondent Nos.2 and 3, its driver, who is respondent No.1 was examined as RW.1 and no documents were filed.

8. The Tribunal having appraised the evidence on record held issue No.1 in favour of the petitioner recording a finding that due to rash and negligent driving of driver of the RTC bus, the accident had occurred. On issue No.2,

keeping in view, the description of injuries shown in Ex.A-3 as simple in nature, granted a sum of Rs.9,000/- as compensation with interest at 9% per annum thereon.

9. Aggrieved by the same, the instant appeal is preferred by the petitioner seeking enhancement.

10. Heard Sri Y.S. Yellanand Gupta, learned counsel for the appellant - petitioner. No representation for respondent Nos.1 and 2 herein. It is stated that respondent No.3 herein is not a necessary party in the grounds of appeal.

11. Perused the documentary evidence. Injury certificate - Ex.A-3 issued by the Government Medical Officer shows that the petitioner sustained three simple injuries. It is no doubt true, that the petitioner has submitted documents marked as Exs.A-10 to A-12 - cash memos for purchase of medicines and, therefore, towards medical expenses, a sum of Rs.1000/- is granted, besides enhancing the amount of Rs.9,000/- to Rs.20,000/- for the reason that the petitioner sustained injury to left side forehead. Thus, the petitioner is entitled to Rs.21,000/- as compensation as against the amount of Rs.9,000/- granted by the Tribunal.

12. The Tribunal has granted interest at 9% per

annum. The same is maintained on Rs.9,000/- granted by the Tribunal, and on the enhanced amount of Rs.12,000/-, the 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].

13. Accordingly, the appeal is allowed in part, and the order and decree, dated 24-02-2005, passed by the Tribunal in O.P. No.1005 of 2000 are modified enhancing the compensation to Rs.21,000/- (Rupees twenty one thousand) from Rs.9,000/- with interest at 9% per annum on the amount of Rs.9,000/- 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 29, 2016.

Mgr

^[1]. 2013 ACJ 1403