

**HONOURABLE SRI JUSTICE A. SHANKAR
NARAYANA**

M.A. C.M.A. No.2657 OF 2005

JUDGMENT:

Seeking enhancement, the instant appeal is preferred by the petitioner being dissatisfied with the amount of Rs.89,000/- towards compensation awarded by the learned Chairman, Motor Accidents Claims Tribunal - cum - I Additional District Judge, Ranga Reddy District, by the order and decree, dated 16.05.2005, in O.P. No.86 of 2001, as against the claim of Rs.2,00,000/- laid under Section 166(1)(a) of the Motor Vehicles Act, 1988 (for short, 'the Act').

2. The appellant herein is the petitioner in the O.P. before the Tribunal, while respondent Nos.1 and 2 viz., Andhra Pradesh Road Transport Corporation, represented by its Depot Manager and General Manager, respectively, (APSRTC) owner of the bus bearing No.AP-10-Z-1004 that involved in the accident, are respondent Nos.1 and 2, respectively.

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

4. The facts, in brief, are that on 15.12.2000 at

about 7.30 a.m., while the petitioner was travelling as a pillion rider on a Scooter bearing No.AP-13-D-1926 driven by her husband from Razzaqpura to Moosabowli, when they reached near City College, APSRTC bus bearing No.AP-10-Z-1004 belonging to the respondents, came in the opposite direction and hit their scooter, due to which, she sustained multiple fractures and grievous injuries, and was immediately shifted to Osmania General Hospital for treatment, and, therefore, she sought a sum of Rs.2,00,000/- towards compensation complaining that she sustained partial permanent disability.

5. Respondent Nos.1 and 2 - APSRTC filed a common counter opposing the claim.

6. Based on the pleadings of the parties, the Tribunal framed three (3) issues in order to determine compensation as well as negligence in taking place of accident.

7. During enquiry, petitioner examined herself as PW.1, besides examining Dr. D. Rajesh Soni, who treated her, as PW.3 and her maid servant Smt. Rita as PW.3 and marked Exs.A-1 to A-11.

On behalf of the respondents, no oral or documentary evidence was adduced.

8. The Tribunal, on appraisal of evidence, held

issue No.1 in favour of the petitioners. On Issue No.2, the Tribunal has not taken partial permanent disability at 35% as shown in Ex.A-9 certificate issued by PW.3, but, however, granted Rs.30,000/- towards injury as reflected from Exs.A-3, A-4 and A-5; and also granted Rs.40,00/- towards medical expenses, Rs.9,000/- towards attendant charges at Rs.1,500/- per month for a period of six (6) months and Rs.10,000/- towards pain and suffering, making a total of Rs.89,000/- towards compensation with interest at 9% per annum from the date of petition till realisation.

9. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal ought to have noticed that the petitioner was an income tax payee and no reasons were assigned in discarding Ex.A-9 disability certificate showing the disability at 35% despite examining PW.3 to prove the same, and, therefore, sought to grant the balance amount.

10. Heard Sri P. Sridhar Reddy, learned counsel for the petitioner.

11. There is no representation for the respondents - APSRTC.

12. Perused the order and decree under challenge and the evidence on record.

13. The injury sustained by the petitioner as described in

Ex.A-4 would reflect that she sustained a compound comminuted fracture of the middle 1/3rd with lower 1/3rd junction of left tibia and she had twice undergone surgical interventions for the fracture of left leg below knee, as per the evidence of PW.3, and she was limping. Keeping in view, the injuries sustained by the petitioner, the amount of Rs.30,000/- granted by the Tribunal towards injury is enhanced to Rs.45,000/-. The amount of Rs.40,000/- granted by the Tribunal towards medical expenses is maintained. The amount of Rs.9,000/- granted by the Tribunal towards attendant charges at Rs.1,500/- per month for a period of six (6) months is enhanced to Rs.12,000/-.

The amount of Rs.10,000/- granted by the Tribunal towards pain and suffering is enhanced to Rs.15,000/-. No amount is granted towards extra-nourishment and transportation, as such, an amount of Rs.5,000/- and Rs.2,000/- are granted under these heads.

14. Thus, the petitioners are entitled to a total compensation of Rs.1,19,000/- (Rupees one lakh and nineteen thousand only) as against Rs.89,000 awarded by the Tribunal, and the same is accordingly awarded. However, the rate of interest granted by the Tribunal at 9%

per annum is maintained on the amount granted by the Tribunal, but, on the enhanced amount, it is granted at 7.5% per annum in view of the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1], from the date of petition till realisation.

15. Accordingly, the Civil Miscellaneous Appeal is allowed modifying the impugned order and enhancing the compensation, as indicated above. 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

March 23, 2016.

PV

^[1] 2013ACJ1403 = 2013(4)ALT35