

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.1879 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.50,000/- as compensation by order and decree, dated 09.03.2009, in M.V.O.P.No.377 of 2005 on the file of Chairman, Motor Accidents Claims Tribunal – cum – District Judge, Chittoor, as against the claim of Rs.2,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the present appeal is preferred by the petitioner in the said O.P., under Section 173 of the Act, seeking enhancement of compensation.

2. The fact situation occurring in the instant case is not in dispute and thereby, obviates the necessity to advert to the details relating to the accident.

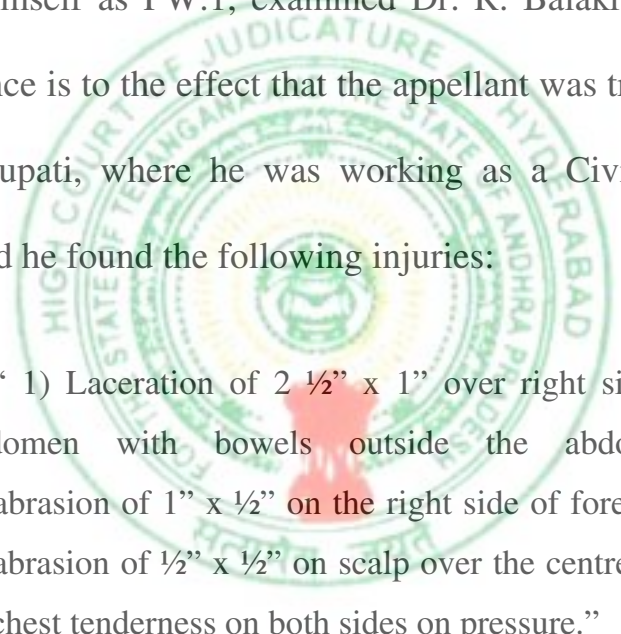
3. Heard Sri Suresh Kumar Reddy Kalava, learned counsel for the appellant, and Sri A. Rama Rao, learned Standing Counsel for the respondent – erstwhile A.P.S.R.T.C.

4. Perused the order under challenge and the evidence on record, both, oral and documentary.

5. The Tribunal has awarded compensation of Rs.50,000/-

bullock-cart, as it was involved in the accident being hit by the bus belonging to R.T.C.

6. The appellant, in order to prove the injuries and the sufferance and surgical intervention he had undergone, besides examining himself as PW.1, examined Dr. R. Balakrishna as PW.4, whose evidence is to the effect that the appellant was treated in SVRR Hospital, Tirupati, where he was working as a Civil Surgeon and Professor, and he found the following injuries:

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- “ 1) Laceration of 2 ½” x 1” over right side of abdomen with bowels outside the abdomen;
 - 2) abrasion of 1” x ½” on the right side of forehead;
 - 3) abrasion of ½” x ½” on scalp over the centre; and
 - 4) chest tenderness on both sides on pressure.”

He also deposed that an operation was conducted for exploratory laparotomy under general anaesthesia and again on 10.03.2005, another operation was conducted for bil-haemothorax and inter costal tubes were placed to evacuate the blood accumulated. He also deposed that the appellant was discharged on 19.03.2005 and that the first injury was serious in nature, whereas other three injuries were grievous in nature. He also deposed that the appellant has to suffer with residual disability and could not be able to carry out work like a

7. The Tribunal, somehow, ignoring the same has placed reliance on Ex.A2 –wound certificate issued by the Government Hospital, Piler, where he was initially taken for treatment. Ex.A2 shows the following injuries:

- “1) A laceration of 2 ½” x 1” over lateral aspect of right side of abdomen with bowel loops outside the abdomen;
- 2) abrasion of 1” x ½” over right side of forehead;
- 3) abrasion of ½” x ½” on both knee joints; and
- 4) abrasion of 1” x ½” over centre of scalp”

8. The Tribunal, basing on the contents in Ex.A2, treated injury No.1 as grievous and the other three injuries as simple and granted Rs.25,000/- towards first injury and Rs.2,000/- each towards other three injuries, besides granting Rs.3,000/- towards temporary loss of earnings, Rs.1,880/- towards extra nourishment, Rs.5,500/- towards transport charges, since the appellant might have engaged a private car to attend the hospital, and Rs.8,620/- towards medical expenses, thus, making a total of Rs.50,000/-.

9. In fact, when the evidence of PW.4 is seen, the amount of Rs.31,000/- granted by the Tribunal towards the four injuries appears to be on lower side, because of the two surgical interventions the appellant had undergone and the nature of injuries as spoken to by

his remaining life. Hence, the appellant is entitled to a sum of Rs.1,00,000/- towards the injuries, including residual disability. Towards extra nourishment, the amount of Rs.1,880/- granted by the Tribunal is enhanced to Rs.5,000/-. Towards loss of earnings, the amount of Rs.3,000/- granted by the Tribunal is enhanced to Rs.12,000/-, at the rate of Rs.2,000/- per month. The amount of Rs.8,620/- granted towards medical expenses, since based on Ex.A6 – bunch of medical bills, the same is maintained, so also the amount of Rs.5,500/- granted towards transportation charges. Thus, the appellant is totally entitled to Rs.1,31,120/- as against Rs.50,000/- awarded by the Tribunal. The Tribunal has awarded interest at 7.5% per annum. Since the said rate of interest is in tune with the rate of interest at 7.5% per annum awarded by the Honourable Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹, the same is maintained on the enhanced amount also.

10. Accordingly, the appeal is allowed in part enhancing the compensation from Rs.50,000/- to Rs.1,31,120/- with interest at 7.5% per annum from the date of petition till realisation.

11. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.