

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1982 of 2009

JUDGMENT :

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is preferred by the appellant – petitioner, aggrieved by the order and decree dated 20.03.2006, passed in M.V.O.P.No.894 of 2004 by the Chairman, Motor Accidents Claims Tribunal-cum-XI Additional District Judge (FTC), Tenali, Guntur District (for brevity "the Tribunal"), whereby and whereunder a sum of Rs.37,000/- was awarded towards compensation with interest at 7.5% per annum, as against the claim of Rs.1,00,000/- made under Section 166 of the Act, for the injuries sustained by him in a motor accident that occurred on 18.07.2004 at 5.30 p.m., within the limits of Guntur Rural Police Station, seeking enhancement of compensation.

2. The appellant is petitioner, respondent No.1 – owner of the offending Auto Rikshaw bearing No.AP 7X 9232 is respondent No.1, and respondent No.2 – United India Insurance Company Limited is respondent No.2, in M.V.O.P.No.894 of 2004. For the sake of convenience, the parties are referred to as they are arrayed in M.V.O.P.No.894 of 2004 before the Tribunal.

3. The fact-situation, the manner in which the accident had occurred and the person responsible for the accident, are

not in dispute. The only dispute is with regard to quantum of compensation awarded by the Tribunal.

4. Heard Sri A. Rajendra Babu, learned counsel for the appellant – petitioner, and Sri Naresh Byrapaneni, learned Standing Counsel for the 2nd respondent – insurer. Though, respondent No.1 – owner is served, none appears for him.

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

6. The Tribunal, while taking the notional income of the petitioner at Rs.15,000/- per annum, somehow, after deducting 1/3rd therefrom towards his personal living expenses, applied the multiplier '16', and further multiplying it with 15% partial permanent disability, arrived at a sum of Rs.24,000/- ($\text{Rs.15,000/-} \times 16 \times 15/100 = \text{Rs.24,000/-}$) towards loss of future earnings of the petitioner. In fact, the petitioner was aged 24 years and, therefore, as per the decision of the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**¹, the appropriate multiplier would be '18'. Further, in case of injury, 1/3rd deduction from the annual earnings cannot be made. Therefore, by taking the notional income of the petitioner at Rs.15,000/-, when multiplier '18' is applied, the same comes to Rs.2,70,000/- ($\text{Rs.15,000/-} \times 18 = \text{Rs.2,70,000/-}$) and 15% thereof would workout to Rs.40,500/- ($\text{Rs.2,70,000/-} \times 15/100 = \text{Rs.40,500/-}$) towards

¹ (2009) 6 Supreme Court Cases 121

loss of future earning capacity of the petitioner, on account of permanent partial disability. The amounts of Rs.10,000/- and Rs.2,000/- granted by the Tribunal towards pain and suffering and medical expenses, respectively, are maintained. However, the amount of Rs.1,000/- granted towards extra nutrition and attendant charges is very low and, therefore, the same is enhanced to Rs.10,000/-. Thus, the petitioner is entitled to a total compensation of Rs.62,500/- (Rs.40,500/- + Rs.10,000/- + Rs.2,000/- + Rs.10,000/- = Rs.62,500/-), as against the compensation of Rs.37,000/- granted by the Tribunal, with interest @ 7.5% per annum on the enhanced amount of Rs.25,500/- also, from the date of petition till the date of realisation.

7. Accordingly, this Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.37,000/- to Rs.62,500/- (Rupees sixty two thousand five hundred only) with interest @ 7.5% per annum, on the enhanced amount of Rs.25,500/- (Rupees twenty five thousand five hundred only) also, from the date of the petition till the date of realization. No order as to costs.

8. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE A. SHANKAR NARAYANA

30.08.2016.
Msr

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