

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA No. 1534 of 2005

Judgment:

Having got dissatisfied with the award of Rs.38,000/- as compensation, by the order, dated 06.04.2004, in OP No.1211 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Nalgonda, 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 injured claimant seeking enhancement.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the Original Petition before the Tribunal.

3. The facts, in brief, are that on 31.08.2001, the petitioner along with his family members was travelling in a Car bearing registration No.AP-28T-6863 from Hyderabad to Vijayawada and when they reached near Peddakaparthi bus stage, a Tanker bearing registration No.ATK 3249, coming in the opposite direction driven in a rash and negligent manner at high speed, dashed the vehicle, due to which, the petitioner sustained fracture to his right wrist and other injuries to his person. He was immediately shifted to Kamineni Hospital, Narketpally, where he was treated with first aid and then he was shifted to Abhinav Orthopaedic Hospital, Hyderabad, where he was treated as inpatient. He, therefore, sought a sum of Rs.1,00,000/- as compensation for the injuries he sustained, contending that the fracture caused inconvenience to him in functioning as Bank Officer and he was 50 years old on the date of accident.

4. Before the Tribunal, the first respondent – owner of the vehicle remained *ex parte*. The second respondent – Insurance Company opposed the claim raising various pleas.

5. The Tribunal, based on the said pleadings, framed three issues in order to fix the responsibility for the accident.

6. During enquiry, the petitioner alone was examined as PW.1 and marked Exs.A1 to A8. On behalf of the Insurance Company no witnesses were examined, but copy of insurance policy was marked as Ex.B1 on consent.

7. On issue No.1, the Tribunal held that due to rash and negligent driving of the driver of the Oil Tanker the accident had occurred. On issue No.2, taking into consideration the prescriptions and medical bills under Exs.A6 and A7 and finding that the petitioner sustained a comminuted fracture of lower end of right radius and ulna involving articular surface and that he was treated with POP bandage, granted a sum of Rs.15,000/- towards injury, Rs.7,000/- towards medical expenses, Rs.5,000/- towards pain and suffering, Rs.1,000/- towards transportation charges and Rs.10,000/- towards loss of pay during treatment and, thus, a total sum of Rs.38,000/- was granted with interest at 9% p.a., from the date of petition till realization.

8. It is the aforesaid order which is under challenge in the instant appeal preferred by the claimant contending in the grounds that the Tribunal has not properly appreciated the evidence on record and, in fact, he was earning Rs.20,000/- towards monthly salary, but towards loss of temporary earnings the Tribunal has granted a meagre sum and, therefore, sought to grant the balance amount.

9. Heard Sri M. Madhava Reddy, learned counsel for the appellant, and Sri E. Venugopal Reddy, learned counsel for the second respondent – Insurance Company. The first respondent, though, served with notice, none appears for him.

10. Perused the order under challenge and the evidence on record both, oral and documentary, let in by the petitioner. The facts are not in

dispute including the injury sustained by the petitioner and the nature of injury. However, as seen from the amounts awarded by the Tribunal, it appears that the said amounts granted under various heads are on lower side. The fracture being a comminuted fracture of lower end of right radius and ulna involving articular surface and treated with POP bandage, the amount of Rs.15,000/- granted by the Tribunal is enhanced to

Rs.25,000/-. Towards medical bills a sum of Rs.7,000/- was granted by the Tribunal as against Rs.7,425/-, therefore, the same is enhanced to Rs.7,425/- as per Ex.A7. The amount of Rs.5,000/- granted by the Tribunal towards pain and suffering is enhanced to Rs.10,000/-, keeping in view, the nature of injuries sustained by the petitioner. Towards transportation charges the amount of Rs.1,000/- granted by the Tribunal is maintained. Rs.10,000/- granted by the Tribunal towards loss of pay during treatment is enhanced to Rs.20,000/-, since at least for a month the petitioner would not have been able to pursue his regular activities. This apart, a sum of Rs.5,000/- is awarded towards extra nourishment, towards which the Tribunal has not granted any amount. Thus, the amount of Rs.38,000/- granted by the Tribunal is enhanced to Rs.68,425/- (Rs.25,000/- + Rs.7,425/- + Rs.10,000/- + Rs.1,000/- + Rs.20,000/- + Rs.5,000/-). The rate of interest granted by the Tribunal at 9% p.a., is maintained on the amount of Rs.38,000/- granted by it, but the interest on the enhanced amount is awarded at 7.5% p.a., from the date of petition till realization as per the decision of the Hon'ble Apex Court in **Rajesh and others v.**

Rajbir Singh and others^[1].

11. Accordingly, the MACMA is partly allowed. There shall be no order as to costs.

12. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand closed.

A. SHANKAR NARAYANA, J

Date: 19.01.2016

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[\[1\]](#) 2013 ACJ 1403 = 2013(4) ALT 35