

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2469 OF 2009

JUDGMENT:

The present appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act') by the petitioner, dissatisfied with the award of Rs.71,000/- as compensation granted by the order and decree, dated 28-04-2008, in M.V.O.P. No.1191 of 2006, passed by the learned Chairman, Motor Accident Claims Tribunal - cum - X Additional District Judge (Fast Track Court), Guntur at Narasaraopet (for short 'the Tribunal'), for the injuries he sustained in a road accident as against the claim of Rs.2,00,000/- laid under Section 163-A of the Act.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2, who are owner and insurer of a lorry bearing registration No.AP 26W 4829, respectively, are respondents as such in MVOP before the Tribunal.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed in MVOP.

4. Heard Sri B. Parameswara Rao, learned counsel for the appellant - petitioner. Since the appellant endorsed in the grounds of appeal that respondent No.1 is not a necessary party, no notice was taken out; whereas, respondent No.2 - Insurance Company, though, served with notice, has not entered appearance.

5. In the present appeal, there is no need to advert to the fact-situation and the injuries sustained by the petitioner. The only submission of the learned counsel for the appellant is, that the Tribunal went wrong in omitting to consider the disability at 40% spoken to by PW.2 - Dr.S.S.V. Ramana, and just taken 20% disability and computed the compensation and, therefore, it is his submission that to consider 40% as the petitioner was treated as in-patient in Ysaswi Hospitals, Guntur for (57) days and suffered a lot and put to inconvenience on account of the crush injuries to the left foot and ankle sustained by the petitioner.

6. Perused the award and the evidence on record, both, oral and documentary.

7. The Tribunal has awarded Rs.51,000/- towards 20% disability, applying structured formula by taking notional income of Rs.15,000/- per annum and the multiplier factor '17' though, the petitioner was aged 32 years as the second schedule to Section 163-A of the Act provides such multiplier factor for a person of that age; besides granting Rs.15,000/- towards medical expenses; Rs.2,000/- towards pain and suffering; Rs.1,000/- towards conveyance; Rs.1,000/- towards attendant charges and Rs.1,000/- towards extra nourishment, thus, making a total of Rs.71,000/- as compensation.

8. The claim petition was laid under Section 163-A of the Act. The Tribunal restricted the claim towards medical expenses to Rs.15,000/- as against Rs.30,707-17ps. said to have spent by the petitioner. Even, the disability is concerned, the Tribunal has rightly taken 20% since PW.2 has not issued any certificate and he was the doctor who treated PW.1, besides the petitioner not obtaining disability certificate from the concerned Medical Board constituted at the headquarters hospital of Guntur District. Therefore, the amount of Rs.51,000/- granted by the Tribunal towards partial permanent disability or the loss of future earning capacity is maintained. The amount of Rs.15,000/- granted towards medical expenses is also maintained. The amount of Rs.2,000/- granted towards pain and suffering is enhanced to Rs.10,000/-. Towards conveyance charges, Rs.1,000/- alone was granted and the same is enhanced to Rs.3,000/-. Towards attendant charges, Rs.1000/- was granted by the Tribunal and the same is enhanced to Rs.5,000/-. Towards extra nourishment, a sum of Rs.5,000/- is granted as against Rs.1,000/- granted by the Tribunal. Thus, in all, the petitioner is entitled to Rs.89,000/- as compensation as against the amount of Rs.71,000/- granted by the Tribunal.

9. Concerning rate of interest, the Tribunal awarded at 7.5% per annum, the same is maintained, even on enhanced amount in view

of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

10. In the result, the appeal is allowed in part, and the order and decree, dated 28-04-2008, in M.V.O.P. No.1191 of 2006, passed by the Tribunal are modified enhancing the compensation to Rs.89,000/- (Rupees eighty nine thousand) from Rs.71,000/- with interest at 7.5% per annum thereon from the date of petition till realization. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

November 02, 2016.
Mgr

¹. 2013 ACJ 1403