

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1976 of 2009

JUDGMENT :

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is filed by the appellant – petitioner, aggrieved by the order and decree dated 30.10.2006, passed in M.V.O.P.No.1507 of 2002 by the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Warangal District (for brevity "the Tribunal"), whereby and whereunder a sum of Rs.89,000/- was awarded towards compensation, as against the claim of Rs.1,50,000/- made under Section 166 of the Act, for the injuries sustained by him in a road accident that occurred on 15.05.2002 at about 11.00 a.m., seeking to grant the entire amount of compensation.

2. The appellant herein is claim petitioner, respondent No.1 – driver-cum-owner of the offending Bajaj Auto bearing No.AP 36U 7449 is respondent No.1, and respondent Nos.2 and 3, who are Branch Managers of Warangal and Osmangunj Branches of National Insurance Company Limited, respectively, are respondent Nos.2 and 3, in M.V.O.P.No.1507 of 2002.

3. For the sake of convenience, the parties are referred to as they were arrayed in M.V.O.P.No.1507 of 2002 before the Tribunal.

4. There is no dispute with regard to the manner in which the accident had occurred as well as the injuries sustained by the petitioner and as regards the occupation of the petitioner, being Mason.

5. Heard Sri A. Ravinder, learned counsel for the appellant – petitioner, and Smt. A. Jayanthi, learned Standing Counsel for respondent Nos.2 and 3 – insurer. Though, respondent No.1 – owner is served with notice, none appears for him.

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

7. The record would show that the petitioner received two grievous injuries and his left thumb was amputated, due to which the petitioner could not lift the weights.

8. The Tribunal, instead of resorting to the structural formula, despite fixing the income of the petitioner as Rs.4,000/- per month and the disability sustained by him as 30%, basing on the evidence of P.Ws.1 and 2, granted a sum of Rs.60,000/- towards the injuries and loss of future earning

capacity. When the age and income of the petitioner are available and when 30% disability sustained by the petitioner was also accepted by the Tribunal, it ought to have applied the relevant multiplier factor, which suits the age of the petitioner, but, the Tribunal did not do so.

9. It is to be seen that since the claim is for Rs.1,50,000/-, the same is just and reasonable, though not adequate, in terms of determination of compensation by applying the relevant multiplier factor, including the amounts granted by the Tribunal under other heads i.e., Rs.4,000/- towards loss of earnings, Rs.5,000/- towards medical expenses, and Rs.20,000/- towards pain and suffering.

10. Accordingly, this Civil Miscellaneous Appeal is allowed, enhancing the amount of compensation from Rs.89,000/- to Rs.1,50,000/- (Rupees one lakh fifty thousand only), while maintaining interest @ 7.5% per annum on the enhanced amount of Rs.61,000/- also. There shall be no order as to costs.

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

JUSTICE A. SHANKAR NARAYANA

16.09.2016.
Msr

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CIVIL MISCELLANEOUS APPEAL No.1976 of 2009



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