

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

C.M.A. No.3029 of 2004

JUDGMENT :

On the ground that a meager amount of compensation was awarded, the appellant/petitioner has preferred the instant Civil Miscellaneous Appeal seeking enhancement of compensation, aggrieved by the order and decree dated 05.08.2000 passed in O.P.No.176 of 1997 by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Ranga Reddy District (for brevity "the Tribunal"), whereby and whereunder a sum of Rs.5,000/- was awarded towards compensation with interest at 12% per annum, as against the claim of Rs.1,50,000/- made by her under Section 166 of the Motor Vehicles Act, 1988 (for brevity "the Act"), for the injuries sustained by her in a motor accident that occurred on 03.07.1994.

2. The appellant is petitioner, respondent No.1 is the owner of the offending Lorry Tipper bearing No.AP 9U 248, and respondent No.2 is its insurer in O.P.No.176 of 1997. For the sake of convenience, the parties herein are referred to as they are arrayed in the above O.P. before the Tribunal.

3. The facts would show that on 03.07.1994, at about 4.30 p.m., while the petitioner along with her mother, sister and her sister's daughter was returning to her house, near KPHB Colony Road, Hyderabad, a Lorry Tipper bearing No.AP 9U 248 came from behind driven in a rash and negligent manner with high speed and dashed them, due to which the petitioner sustained grievous injuries, and the lorry driver stopped the vehicle at a distance of 200 meters and fled away. The police registered a case in Crime

No.234 of 1994 of P.S., Kukatpally, under Section 337 of IPC against the driver of the said lorry. Immediately thereafter, the petitioner was shifted to Gandhi Hospital, Secunderabad, for treatment, where she was treated as an inpatient for four days and later she took treatment under a private medical practitioner. Hence, she made a claim for a compensation of Rs.1,50,000/- against the owner and insurer of the offending lorry, stating that she incurred heavy expenditure towards treatment.

4. During enquiry before the Tribunal, the mother of the petitioner herself was examined as P.W.1 and marked Exs.A.1 to A.6, which are the copies of FIR, complaint, charge sheet, panchanama, extract of accident register and discharge card, respectively. On behalf of the respondents, none were examined and no documents were marked. It appears that, initially though the 2nd respondent – insurer filed counter, did not participate in the trial and, therefore, the Tribunal proceeded with the disposal of the case by taking into consideration the evidence of P.W.1 and Exs.A.1 to A.6. Opining that the petitioner sustained simple injuries as could be seen from Ex.A.5 – extract of accident register, the Tribunal granted a sum of Rs.5,000/- towards compensation with interest at 12% per annum.

5. Challenging the above-said order, the present Civil Miscellaneous Appeal is filed by the petitioner, contending in the grounds of appeal, that the Tribunal totally ignored the fact that she spent Rs.80,000/- to Rs.90,000/- for treatment and that she suffered injuries to her head, neck, hands and legs and hence sought to grant the balance amount of compensation.

6. Heard Sri G. Subhash, learned counsel for the

appellant/petitioner. No representation for the 2nd respondent – insurer. Though, there is an endorsement that the appeal against respondent No.1 – owner of the offending lorry is dismissed for default vide orders of this Court dated 06.11.2003, it makes no difference in view of the fact that the 1st respondent suffered decree passed by the Tribunal. Perused the impugned order and the material on record.

7. A perusal of the impugned order shows that the petitioner has not taken any pains to file any evidence in order to prove that she was treated in a private hospital. Even a perusal of Ex.A.5 – accident register does not disclose that she was treated as an inpatient. Except her statement that she was treated as an inpatient for four days and spent Rs.80,000/- to Rs.90,000/- towards medical expenses, no other evidence is made available and no reasons are assigned as to why she could not adduce any further evidence, though, she claimed that she took treatment under a private medical practitioner. Be that as it may, as could be seen from Ex.A.5 – accident register, the petitioner received the following injuries:

- “(1) A fresh irregular triangular shaped laceration of 1 x 1 x ½’ on (L) paschal region;
- (2) A fresh irregular triangular shaped laceration of 1’ x 1’ x ½’ on occipital region;
- (3) A fresh laceration of 1 ½’ x ½’ x ½’ over back of neck horizontally.”

8. Though, the petitioner was advised to take skull X-Ray, there is no material placed on record to show whether she had taken X-Ray or not. However, keeping in view the injuries sustained, the petitioner must have suffered inconvenience,

atleast for sometime. Hence, the compensation amount of Rs.5,000/- granted by the Tribunal is enhanced to Rs.10,000/-.

9. As regards interest, while maintaining interest granted @ 12% per annum on the compensation amount of Rs.5,000/- already awarded by the Tribunal, the petitioner is granted interest @ 7.5% per annum on the enhanced amount of Rs.5,000/- as per the decision of the Hon'ble Supreme Court in RAJESH AND OTHERS V. RAJBIR SINGH AND OTHERS^[1].

10. Accordingly, the Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.5,000/- to Rs.10,000/- (Rupees ten thousand only) along with interest @ 12% per annum on Rs.5,000/- (Rupees five thousand only) as was awarded by the Tribunal and @ 7.5% per annum on the enhanced amount of Rs.5,000/- (Rupees five thousand only). No order as to costs.

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

JUSTICE A. SHANKAR NARAYANA

28.06.2016.

Msr

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