

**HONOURABLE SRI JUSTICE A. SHANKAR
NARAYANA**

M.A. C.M.A. No.1714 OF 2005

JUDGMENT:

Dissatisfied with the award of Rs.6,000/- towards compensation as against the claim of Rs.1,00,000/- laid under Section 166 of the Motor Vehicles Act 1988 (for short 'the Act'), appellant preferred this Civil Miscellaneous Appeal against the order and decree, dated 30.06.2004, passed by the learned Chairman, Motor Accidents Claims Tribunal - cum - V Additional District Judge (Fast Track Court), Nizamabad, in O.P. No.1387 of 2001, seeking enhancement of the compensation.

2. Appellant is petitioner in the O.P. before the Tribunal, while respondent Nos.1 and 2, who are owner and insurer, respectively, of the Tempo bearing No.AP-1-8497, which involved in the accident, are respondent Nos.1 and 2, respectively.

3. For the sake of convenience, the parties herein are hereinafter referred to as arrayed in the O.P. before the Tribunal.

4. The facts, in brief, are that on 26-05-1997, while the petitioner was proceeding as a pillion rider on TVS Suzuki Motor Cycle driven by one Gaddam Govind Reddy

from Adilabad towards Nizamabad slowly and cautiously on the left side of the road, near Dasnapur Bridge on National Highway No.7, met with an accident as the Tempo bearing No.AP-1-8497 hit their motorcycle, resulting injuries to him. Petitioner states that immediately he was admitted in Government Hospital, Adilabad. He states that he sustained loss due to his inability to run his Computer Institute on account of his disability, and, therefore, sought to award Rs.1,00,000/- towards compensation.

5. Respondent Nos.1 and 2, insured and insurer, filed their respective counters opposing the claim.

6. The Tribunal, based on the pleadings, framed the following three (3) issues:

“1. Whether the accident has taken place due to rash and negligent driving of the vehicle bearing No.AP-1-8497 by its driver?

2. Whether the petitioner is entitled for compensation? If so, to what just amount and from which of the respondents?

3. To what relief?”

7. During enquiry, petitioner examined himself as PW.1 and marked Exs.A-1 to A-6. On behalf of the respondents, no oral or documentary evidence was adduced.

8. The Tribunal, on issue No.1, having analysed the evidence of PW.1, held it in favour of the petitioner. On issue No.2, finding that the petitioner sustained two simple injuries, as described in Ex.A-4, granted Rs.6,000/- towards total compensation at Rs.3,000/- per injury, with interest at 9% per annum from the date of petition till realisation.

9. Aggrieved by the aforesaid order of the Tribunal, petitioner preferred the instant appeal contending that the Tribunal totally ignored the relevant facts and has not properly appreciated the evidence on record despite the fact that he sustained fractures and that the Tribunal has not granted any amount towards treatment, transportation, extra-nourishment, attendant and lodging expenses, and, thus, sought to grant the balance amount.

10. Heard Smt. K. Sarala Mahender Reddy, learned counsel for the petitioner, and Sri M. Satish Reddy, learned counsel for the insurer - respondent No.2.

11. Despite service of notice, none appears for the insured - respondent No.1.

12. It is clear from the evidence on record that the petitioner sustained only two simple injuries, which are extracted in the impugned order, as described in Ex.A-4. Admittedly, petitioner has not sustained any fracture,

though, he claimed that he sustained fracture injuries and to prove the same he has not examined any doctor. Further, no injury certificate is produced to show that he sustained fractures. However, keeping in view, that injury No.2 was on occipital region, the amount of Rs.6,000/- granted by the Tribunal is enhanced to Rs.10,000/-.

13. Thus, the petitioner is entitled to a total compensation of Rs.10,000/- (Rupees ten thousand only) as against Rs.6,000/- awarded by the Tribunal, and the same is accordingly awarded. However, the petitioner is entitled to interest on the amount granted by the Tribunal at 9% per annum, but on the enhanced compensation at 7.5% per annum only, from the date of petition till realisation as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1].

14. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the impugned award passed by the Tribunal, by enhancing the compensation with interest as stated supra. There shall be no order as to costs.

15. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal stand disposed of.

A. SHANKAR NARAYANA, J

January 6, 2016.

PV

[\[1\]](#) 2013ACJ1403 = 2013(4)ALT35