HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.3357 OF 2005

JUDGMENT:

Having got dissatisfied with the award of Rs.48,500/- as compensation as against the claim of Rs.1,00,000/- laid under Section 166 read with 140 of the Motor Vehicles Act, 1988 (for short 'the Act'), by order and decree, dated 03-02-2005, in O.P. No.61 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal – cum – III Additional District Judge (I Fast Track Court), Nalgonda (for short 'the Tribunal'), the instant appeal is preferred by the petitioner under Section 173 of the Act seeking enhancement.

2. The appellant herein is the petitioner in O.P. before the Tribunal and respondent – Andhra Pradesh State Road Transport Corporation is also arrayed as Respondent.

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

4. The facts, in brief, are that on 11-09-2001 at about 9.30 p.m., while the petitioner was crossing the road at Mayuri Dresses shop at Nakrekal on National Highway No.9, an RTC bus bearing registration No.AP 10Z 5312 driven by its driver in a rash and negligent manner came from Vijayawada side proceeding towards Hyderabad, hit the petitioner, due to which, he sustained grievous injuries. He was immediately shifted to Primary Health Centre, Nakrekal and from there to Yashoda Super Specialty Hospital, Hyderabad and, thereafter, to Nizams' Institute of

Medical Sciences, Hyderabad for treatment. Claiming that he was earning Rs.3,000/- per month as Hamali, and on account of accident, he became totally bed-ridden and spent huge amount for taking treatment in various hospital, sought to grant Rs.1,00,000/- as compensation against the respondent - Corporation.

5. Respondent – Corporation filed counter opposing the claim raising various pleas.

6. On the basis of pleadings, the Tribunal has framed three issues about the responsibility for the accident.

7. During inquiry, the petitioner examined himself as PW.1 and marked Exs.A-1 to A-8 in order to substantiate his claim. On behalf of respondent, no witnesses were examined and no documents were filed.

8. On issue No.1, the Tribunal, on appraisal of evidence on record, held it in favour of the petitioner. On issue No.2, taking into consideration that the petitioner was treated in NIMS Hospital on 12-09-2001 and 13-09-2001 and basing on the bills issued by NIMS Hospital and since the petitioner sustained two grievous injuries, granted Rs.15,000/- for each grievous injury and Rs.2,000/- for simple injury, besides granting Rs.12,000 towards treatment and medical expenses and Rs.4,500/- towards loss of temporary earnings, making a total of Rs.48,500/- as compensation with interest at 9% per annum thereon.

9. It is the aforesaid order which is under challenge in the instant appeal seeking enhancement of compensation contending in the grounds that the Tribunal has not properly

appreciated the evidence on record, more particularly, documentary evidence, and the circumstance that the petitioner was treated in NIMS Hospital, Hyderabad and Yashoda Hospital, Hyderabad, granted only
a meager compensation of Rs.48,500/-, despite he became bed-ridden on account of fractures to second and third ribs of the chest and, therefore, sought to grant balance amount. He has also sought to enhance rate of interest from 9% to 12% on the balance amount.

10. Heard Sri M. Madhava Reddy, learned counsel for the appellant – petitioner. Despite service of notice on respondent – Corporation, none appears.

11. Perused the order and the evidence, both, oral and documentary.

12. As seen from the record, petitioner sustaining injuries and undergoing treatment in NIMS and Yashoda Hospitals at Hyderabad and initially at Nakrekal are not in dispute. In fact, CT scans for brain and spine were taken in Yashoda Hospital, Hyderabad and he was treated at NIMS Hospital, Hyderabad on
12-09-2001 and 13-09-2001 as seen from Ex.A-6. The petitioner, in fact, received head injury which being a chip fracture of C5 body (head injury on right occipital and temporal region) and fracture of 3rd and 4th ribs on left side of chest and multiple abrasions on forehead. When kept in view, the nature of injuries sustained by the petitioner, the amount of Rs.15,000/- for each grievous injury granted by the Tribunal, certainly, requires enhancement and, therefore, the same is enhanced to Rs.25,000/- each including

pain and suffering.

13. So far as simple injury is concerned, the Tribunal granted the same at Rs.2,000/-, but in view of the nature of injuries sustained by the petitioner, the same is enhanced to Rs.3,000/-. The Tribunal has granted Rs.12,000/- towards treatment and medicines, the same is maintained. The Tribunal has not granted any amount towards extra nourishment, transport charges and attendant charges. Towards extra nourishment, a sum of Rs.10,000/- is granted keeping in view the injury to occipital region and injuries to ribs. This apart, a sum of Rs.2,000/- is granted towards transport charges, and sum of Rs.6,000/- towards attendant charges. The amount of Rs.4,500/- granted by the Tribunal towards loss of temporary earnings @ Rs.1500/- per month for 3 months, is enhanced to Rs.6,000/- treating his income as Rs.2,000/- per month. Thus, in all, the petitioner is entitled to Rs.83,000/- as compensation as against Rs.48,500/-.

14. Concerning rate of interest, the Tribunal has granted the same at 9% per annum and the same is not disturbed on the amount awarded by the Tribunal. However, on the enhanced amount of Rs.34,500/-, interest is granted at the rate of 7.5% per annum from the date of petition in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**[1].

15. In the result, the appeal is allowed in part, and the order and decree, dated 03-02-2005, in O.P. No.61 of 2003, passed by the Tribunal, are modified, enhancing the compensation to

Rs.83,000/- (Rupees eighty three thousand) from Rs.48,500/- with interest at the rate of 9% per annum on the amount of Rs.48,500/- granted by the Tribunal and at the rate of 7.5% per annum on the enhanced amount of Rs.34,500/-(Rupees thirty four thousand and five hundred) from the date of petition till realization. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

February 03, 2016.
Mgr

[1]. 2013 ACJ 1403