

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No. 2839 of 2005

JUDGMENT:

Having got dissatisfied with the amount of Rs.9,000/- granted as compensation by the order dated 20.04.2005 in O.P. No.994

of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (FTC), Nizamabad (for short, 'the Tribunal') as against the claim of Rs.1,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), for the injuries sustained by the appellant in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2 herein, who are the owner and insurer of auto rickshaw bearing registration No.AP 25T 8680, respectively, are respondent Nos.1 and 2, respectively, in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts, in brief, are that on 23.02.2002, while the petitioner was traveling in an auto rickshaw bearing registration No.AP 25T 8680 from Perkit to Balkonda and

when the said auto rickshaw reached near Nehrunagar Colony, Balkonda, at about 4.00 p.m., since the driver of the auto rickshaw drove it in a rash and negligent manner, he lost control over the same and it resulted turning upside down, resulting injuries to the petitioner. According to her, immediately after the accident, she was shifted to Government Civil Hospital, Balkonda, where she was treated as inpatient and, thereafter, she took treatment in a private hospital and she incurred medical expenses of Rs.1,00,000/-. Thus, she calculated the special and general damages at Rs.39,60,000/-, but she restricted her claim to Rs.1,50,000/-.

5. Respondent No.1-owner of the accident vehicle remained *ex parte* before the Tribunal. Respondent No.2-insurer filed counter and opposed the claim raising various pleas, which, of course, are unnecessary to advert to in this appeal, since the appeal is preferred by the claimant.

6. Basing on the said pleadings, the Tribunal framed the following issues about the responsibility for the accident:

"1. Whether the accident was due to rash and negligent driving of the auto rickshaw bearing No.AP 25T 8680 by its driver?

2. Whether the petitioner is entitled for compensation, if so, to what extent and from

whom?

3. To what relief ?"

7. During enquiry, the petitioner examined herself as P.W.1, besides examining one Dr. T. Narsing Rao as P.W.2 and marked Exs.A.1 to A.7 to substantiate her claim; whereas, on behalf of respondent No.2, no witnesses were examined, but a copy of insurance policy of the accident vehicle was marked as Ex.B.1 on consent.

8. The Tribunal, on analyzing the evidence let in by the petitioner, recorded finding on issue No.1 that due to rash and negligent driving of the auto rickshaw bearing registration No.AP 25T 8680, the accident had occurred. On issue No.2, the Tribunal, having discussed Ex.A.3-wound certificate, having found that the petitioner sustained three simple injuries, awarded a sum of Rs.3,000/-, Rs.5,000/- towards medical treatment, and Rs.1,000/- towards transportation and extra nourishment and, thus, awarded a total sum of Rs.9,000/- as compensation with interest at 9% per annum.

9. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that meager compensation was granted by the Tribunal without appreciating the evidence on record in proper perspective. It is also stated that the Tribunal ought to have considered the circumstance that the petitioner

spent Rs.1,00,000/- towards medical expenses and, therefore, sought to grant balance amount.

10. Heard Sri K. Sarala Mahender Reddy, learned counsel for the appellant-petitioner and Smt. Jonna Ramani, learned counsel for respondent No.2.

11. The instant appeal was dismissed against respondent No.1, but the said dismissal is of no consequence, in view of the decision of this Court in ***Meka Chakra Rao v. Yelubandi Baburao***^[1].

12. Learned counsel for the appellant would submit that the amount awarded by the Tribunal is very meager, despite the presence of evidence of P.W.2, Ex.A.7- disability certificate issued by P.W.2, Ex.A.6- prescriptions and Ex.A.5-X-ray and, therefore, sought to grant balance amount.

13. Learned counsel for the Insurance Company would submit that Ex.A.3-wound certificate would show that the petitioner sustained only simple injuries and, accordingly, the Tribunal had granted Rs.9,000/- which is just and fair compensation in the facts and circumstances of the case.

14. Perused the order and the evidence, both, oral and documentary, let in by both sides. Ex.A.3-wound certificate issued by the Civil Assistant Surgeon, Government Hospital, Balkonda, would show that the

petitioner sustained two simple injuries i.e., darkening of skin which may be due to previous contusion of 2 x 2 cm over forehead and infected wound which may be due to previous laceration of 3 x 1 cm on upper part of left thigh, and she sustained pain over left supra clavicle region. So far as the evidence of P.W.2 and Ex.A.7-disability certificate issued by him basing on Exs.A.5 and A.6 are concerned, the finding recorded by the Tribunal excluding the evidence of P.W.2 cannot be found fault, as in number of cases he has been figuring as a Medical Officer who had issued Ex.A.7-disability certificate without there being any injury as such and the disability as opined by him. The Tribunal has also made comments against him relating to the observations of this Court in paragraph 16. The Tribunal has specifically projected what has been observed by this Court in A.A.O.No.3518 of 2004. In that view of the matter, the amount of Rs.9,000/- granted by the Tribunal for the injuries sustained by the petitioner as described in Ex.A.3-wound certificate cannot be interfered with, including the evidence recorded by the Tribunal. There is no merit in the appeal and, therefore, the same is liable to be dismissed.

15. Accordingly, the instant appeal is dismissed, confirming the order and decree passed by the Tribunal. There shall be no order as to costs.

16. As a sequel thereto, miscellaneous applications, if

any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

4th March, 2016

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