

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1576 OF 2005

JUDGMENT:

Having got dissatisfied with the award of Rs.3,000/- as compensation by the order dated 30.07.2004 in M.V.O.P. No.751 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Warangal (for short, 'the Tribunal') as against the claim of Rs.30,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the injuries sustained by the appellant-petitioner 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 the auto bearing registration No.AP 36V 2547, 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 would show that on 16.05.2003, while the petitioner along with one Elugaboina Mallaiah, who was petitioner in M.V.O.P. No.751 of 2003, was

returning in an auto bearing registration No.AP 36V 2547 and when reached Chennaraopet, since the auto driver drove it in a rash and negligent manner and lost control over the same, it turned upside down, resulting in injuries to both of them. They were referred to Community Hospital, Narampet and from there, shifted to MGM Hospital, Warangal. According to the petitioner, he spent huge amount towards medical expenses and, therefore, he sought a sum of Rs.30,000/- as compensation from respondent Nos.1 and 2, who are owner and insurer of the accident vehicle.

5. Respondent No.1 remained *ex parte* before the Tribunal. Respondent No.2 filed counter raising various pleas.

6. Basing on the said pleadings, the Tribunal framed three common issues about the responsibility for the accident and conducted common trial in both the claims. During enquiry, the petitioner in M.V.O.P. No.751 of 2003 examined himself as P.W.1 and the petitioner in M.V.O.P. No.752 of 2003 examined himself as P.W.2 besides examining the doctor as P.W.3 and marked Exs.A.1 to A.12 to substantiate his claim; whereas, on behalf of respondent Nos.1 and 2, no witnesses were examined and no documents were filed.

7. The Tribunal, on appraisal of evidence on record, both, oral and documentary let in by the petitioner,

held issue No.1 in favour of the petitioner; and on issue No.2, disbelieving the evidence of the petitioner as P.W.2 that he received grievous injuries to nose, thigh and other parts on his person, granted Rs.3,000/- on all counts basing on Ex.A.10-wound certificate, which shows only two simple injuries.

8. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal did not appreciate the evidence on record in proper perspective and granted only meager amount and, therefore, sought to enhance the compensation.

8. The other appeal in M.A.C.M.A. No.1758 of 2005, arising out of M.V.O.P. No.751 of 2005, was already disposed of on 18.11.2015 by this Court.

9. Heard Sri A.Prabhakar Rao, learned counsel for the appellant-petitioner. No representation for respondent No.2-Insurance Company. It is mentioned in the grounds of appeal that the respondent No.1 is not a necessary party. Perhaps, the reason being that he suffered decree passed by the Tribunal.

10. As seen from the evidence on record and the description of injuries mentioned in Ex.A.10 showing that the petitioner sustained two simple injuries, the amount of Rs.3,000/- granted by the Tribunal is enhanced to

Rs.6,000/-, as it appears that he was treated as outpatient.

11. Thus, the petitioner is entitled to a total sum of Rs.6,000/- (Rupees six thousand) as against Rs.3,000/- granted by the Tribunal towards compensation and the same is accordingly granted. So far as the rate of interest is concerned, the Tribunal granted the same at 9% per annum and the same is maintained on the amount granted by the Tribunal and the interest at 7.5% per annum is granted on the enhanced amount in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[1].

12. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

13. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

4th July, 2016

siva

[\[1\]](#) 2013 ACJ 1403