

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No. 3054 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-petitioner in O.P. No.123 of 2004 (Old O.P. No.963 of 2002) on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Nalgonda at Suryapet (for short, 'the Tribunal'), having got dissatisfied with the award of compensation of Rs.79,000/- with interest at the rate of 9% per annum from the date of petition till realisation, granted by the Tribunal, *vide* the order dated 24.11.2004, as against the claim of Rs.2,00,000/- laid under Section 166 of the Act for the injuries sustained by her in a motor accident occurred on 17.01.2002.

2. Heard the learned counsel for the appellant-petitioner and learned Standing Counsel for respondent No.2-insurer, apart from perusing the material available on record. Though served with notice, none appeared on behalf of respondent No.1-owner of the crime vehicle. However, non-appearance of respondent No.1-owner of the crime vehicle is of no consequence to decide the quantum of compensation, in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**¹.

3. The parties hereinafter are referred to as arrayed before the Tribunal.

4. Learned counsel for the appellant-petitioner would contend that the petitioner suffered grievous injuries and was bedridden; before the

¹ 2001(1) ALT 495 (D.B.)

accident, she was working as fashion designer and earning Rs.10,000/- per month; the Tribunal granted only Rs.79,000/- for the pain and suffering, loss of earnings, etc., due to the injuries, which is meagre and unjust; and ultimately, prayed to enhance the compensation as claimed.

5. On the other hand, learned Standing Counsel for respondent No.2-insurer would submit that the Tribunal had taken the entire evidence on record into consideration and granted just and reasonable compensation; there are no circumstances to interfere with the award; and ultimately, prayed to dismiss the appeal.

6. The petitioner claimed a compensation of Rs.2,00,000/- for the injuries suffered by her in a motor accident. To substantiate the same, she deposed as P.W.1 and also got examined Dr. P.Srikanth as P.W.2 and got marked the entire medical record in support of her case. There is no much dispute with regard to the rashness and negligence on the part of the driver of the crime vehicle, i.e., lorry bearing No.AP 26V 5767 and also the insurance policy of the crime vehicle with respondent No.2-insurer.

7. The only point that is to be considered is, whether the petitioner is entitled for enhancement of compensation?

8. As per the evidence of P.W.1, she suffered grievous injuries. To substantiate the same, she produced Ex.A.3-wound certificate, which reveals that she suffered (i) closed common tibial condyles and (ii) fracture head of third and fourth metatarsal of left foot, and she took treatment for those injuries. P.W.3-Dr. P.Srikanth also deposed about the injuries suffered by the petitioner and the treatment taken by her. Considering the medical bills and the evidence, the Tribunal granted Rs.60,000/- towards medical expenses, Rs.10,000/- for pain and suffering

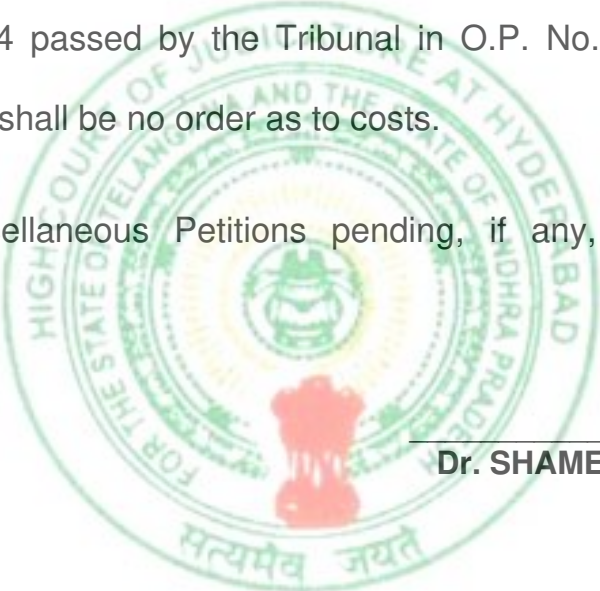
and another sum of Rs.9,000/- towards loss of earnings. In all, the Tribunal granted Rs.79,000/- as compensation to the petitioner against respondent Nos.1 and 2. The findings of the Tribunal are based on the entire evidence on record. In view of the nature of the injuries suffered by the petitioner and the treatment taken by her, the award of Rs.79,000/- on all heads is quite just and reasonable. There are no circumstances to enhance the compensation as contended by the petitioner. This point is answered accordingly.

9. In the result, this appeal is dismissed confirming the order dated 24.11.2004 passed by the Tribunal in O.P. No.123 of 2004 in all respects. There shall be no order as to costs.

10. Miscellaneous Petitions pending, if any, shall also stand dismissed.

Date: 03.11.2017

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Dr. SHAMEEM AKTHER, J