

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No. 232 of 2006

JUDGMENT:

This appeal is arising out of the common judgment and decree passed in O.P.No.326 of 1993 and O.P.No.327 of 1993, by the Motor Accidents Claims Tribunal-cum-II Additional District Judge, Cuddapah. The appellant is the claimant, filed O.P.No.326 of 1993 under Section 140 of the Motor Vehicles Act, 1988 seeking fixed compensation of Rs.12,000/-, and he also filed O.P.No.327 of 1993 under Section 166 of the Act, seeking additional compensation of Rs.88,000/- for the injuries sustained by him in a motor vehicle accident. On consideration of the evidence, the Tribunal, in O.P.No.326 of 1993, has awarded compensation of Rs.12,000/- with interest at 12% per annum from the date of petition till realisation; and in O.P.No.327 of 1993, it awarded compensation of Rs.59,000/- with interest at 12% per annum from the date of petition till realisation. However, out of the entire compensation of Rs.71,000/- awarded to the appellant, the amount of Rs.12,000/- awarded in O.P.No.326 of 1993 was deduced as per the decision reported in **Cherukuri Venkat Raju v. Parasa Reddy**¹. Aggrieved by the quantum of compensation,

¹ 1994 (2) ALT 653

the claimant preferred this appeal for enhancement of compensation.

2. Heard Sri K. Murali Krishna, learned counsel for the appellant; and Sri G. Visweswar Reddy, learned counsel appearing on behalf of the insurance company.

3. The short point that arises for consideration in this appeal is whether the appellant is entitled for enhancement of compensation.

4. The appellant is the injured in a motor vehicle accident that occurred on 12.12.1992, at about 7.00 P.M., when a bus bearing No.PY01-3722, driven by its driver in a rash and negligent manner, dashed against the cycle of the appellant when he was returning to his house after completion of his work. The Tribunal held that the accident occurred due to the rash and negligent driving by the driver of the offending bus, but awarded only Rs.59,000/- for the injuries sustained by him in the accident.

5. Learned counsel for the appellant-claimant submits that the Tribunal has not considered the gravity of the injuries suffered by the appellant for awarding adequate compensation. The medical officer PW2 has clearly stated that the right knee of the claimant

was amputated and he has also issued Ex.A4-Disability Certificate.

The Tribunal, having observed that the claimant has suffered disability has not considered the certificate Ex.A4 for the reason that the medical officer did not mention the percentage of disability in the certificate issued by him under Ex.A4 and, therefore, sought for enhancement of compensation.

6. This is a most unfortunate case where the claimant's leg was amputated on his right knee. PW2-Dr. Ramachandraiah has deposed the said fact before the Tribunal. He has also issued a permanent disability certificate but without mentioning the percentage of disability. No doubt, the medical officer who issued Ex.A2 wound certificate was not examined in this case. The Tribunal, however, came to the conclusion that according to PW2, he issued Ex.A4 disability certificate. The Tribunal, having observed that on seeing the claimant, his leg appears to have shortened and that he suffered maximum permanent disability, awarded a notional amount of Rs.40,000/-.

7. The evidence of medical officer PW2 would clearly disclose that the injured-PW1 has suffered right knee amputation with irregular surface of leg. No doubt, PW2 has issued permanent disability certificate. The Tribunal has also observed that there was shortening of leg on physical appearance. In view of these

observations, and in the light of the evidence of PW2 and the documents Exs.A2-wound certificate, and Ex.A4-disability certificate, the compensation claimed by the injured claimant can be fully awarded in this case.

8. **IN THE RESULT**, the appeal is allowed, by modifying the award passed by the Tribunal, by enhancing the compensation from Rs.59,000/- to Rs.88,000/- with interest at 12% per annum, from the date of petition till realisation. No costs. Miscellaneous petitions, if any pending, shall stand closed.

23rd October, 2017

KSM

GUDISEVA SHYAM PRASAD, J



THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



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