

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.4785 OF 2004

JUDGMENT:

Heard Sri P. Radhive Reddy, learned counsel for appellant - petitioner, and Sri T. Ramulu, learned standing counsel for respondent No.2 - Insurer. The appeal against respondent No.1 was dismissed for default, by order, dated 13.04.2016, but it makes no difference in deciding the request herein in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi babu Rao @ Reddemma**¹.

2. The appellant herein is petitioner in O.P. No.205 of 1997 on the file of the Chairman, Motor Accidents Claims Tribunal - cum - II Additional District & Sessions Judge (Fast Track Court), Nizamabad (for short 'Tribunal'), while respondent Nos.1 and 2 herein, who are owner and insurer of lorry bearing registration No.APJ 2360, respectively, are respondents as such.

3. For the sake of convenience, the parties hereinafter referred to as they were originally arrayed in the aforesaid O.P.

4. By the order, dated 30.09.2003, in O.P. No.205 of 1997, the Tribunal awarded a sum of Rs.2,000/- for the fracture sustained by the petitioner, who was 14 years old on the date of accident on the main ground that X-ray was not filed and disbelieved the evidence of PW.2

¹. 2001 (1) ALD 453 (DB)

- Dr. T. Narsing Rao, another doctor from the same Area, examined on commission, by making observations even.

5. Now, turning to the evidence on record, Ex.A-3 is the discharge certificate covered by wound certificate issued by the Civil Assistant Surgeon, Government Headquarters Hospital, Nizamabad. It shows that there is fracture of right Clavical which is also endorsed in X-ray by the Medical Officer. Thus, when kept in view, certainly, the petitioner is entitled to enhancement of compensation though not to the amount which she sought for. Keeping in view, the age of the petitioner, who was 14 years old, a tender girl then and the nature of injury she sustained, which was a fracture including pain and suffering, a sum of Rs.25,000/- is granted. Towards extra nourishment, a sum of Rs.5,000/- is granted, and towards transport charges, a sum of Rs.1,000/- is granted. Thus, in all, the petitioner is entitled to Rs.31,000/- as against Rs.2,000/- granted by the Tribunal.

6. Concerning rate of interest, the Tribunal awarded it at 9% per annum on Rs.2,000/- and the same is maintained, but on the enhanced amount of Rs.29,000/-, interest at 7.5% per annum is awarded in view of the decision rendered by the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**².

². 2013 ACJ 1403

7. In the result, the appeal is allowed in part, and the order and decree, dated 30-09-2003, in O.P. No.205 of 1997, passed by the Tribunal, are modified, enhancing the compensation to Rs.31,000/- from Rs.2,000/- with interest at the rate of 9% per annum on the amount of Rs.2,000/- granted by the Tribunal and at the rate of 7.5% per annum on the enhanced amount of Rs.29,000/- from the date of petition till realization, and in all other respects, the order and decree is confirmed. There shall be no order as to costs.

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

August 28, 2017.
Mgr

A. SHANKAR NARAYANA, J

