

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Civil Miscellaneous Appeal No.4821 OF 2004

JUDGMENT:

The present Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') requesting to enhance the compensation on the ground that the amount of Rs.19,233/- awarded by the tribunal as compensation for the injuries sustained by the petitioner was meagre though claim laid for Rs.1,50,000/- under Sections 140, 163A and 166 of the Motor Vehicles Act, 1988 read with Rule 475 of A.P. Motor Vehicles Rules, 1989.

2. Heard Sri V. Sudhakar Reddy, learned counsel for the appellant and Sri E. Venugopal Reddy, learned Standing Counsel for the 3rd respondent-Insurance Company. Though service was completed on respondents 1 and 2, none appears for them.

3. Perused the order of the Tribunal and the material on record.

4. Admittedly, the medical officer is not examined, but the petitioner filed Disability Certificate showing the disability said to have sustained by him at 35%. The Tribunal rightly discarded on the ground that the Doctor, who issued Ex.A1, was not examined. In fact, Ex.A4 wound certificate shows that the petitioner sustained abrasion (loss of skin) on the back of left forearm and another abrasion over

right knee on front side and also deformity and swelling of left forearm. X-ray taken by the Doctor revealed that the petitioner sustained fracture of both bones of left forearm. The tribunal while computing temporary loss of earnings dealt with elaborately as to daily wage of the petitioner in paragraph-10 and arrived at Rs.9,233/- towards temporary loss of earnings for a period of five months at the rate of Rs.61-50 ps per day, but, however, granted Rs.5,000/- towards grievous injury and Rs.2,000/- towards two simple injuries, and towards mental agony the Tribunal granted a sum of Rs.3,000/-.

5. The accident occurred in December, 1997. However, when keeping in view, grievous injury sustained by the petitioner to his left forearm, since there is fracture of both bones, certainly, Rs.5,000/- awarded by the Tribunal is on lower side and hence the same is enhanced to Rs.15,000/-. The compensation awarded towards two simple injuries at the rate of Rs.1,000/- per injury is enhanced to Rs.3,000/- per injury making a sum of Rs.6,000/- (Rs.3,000/- x 2). A sum of Rs.9,233/- arrived at by the Tribunal towards loss of earnings is maintained. Towards pain and suffering and mental agony, a sum of Rs.3,000/- granted by the Tribunal is on lower side. In fact, the Tribunal has not considered extra nourishment and travelling expenditure. Therefore, the same is enhanced to Rs.10,000/- under the remaining heads. Thus, the petitioner is entitled to Rs.40,233/-, which is rounded off to Rs.41,000/- .

6. In the result, the Appeal is partly allowed. The compensation amount of Rs.19,233/- awarded by the Tribunal is enhanced to Rs.41,000/-. The rate of interest awarded by the Tribunal is on lower side, and, therefore, the interest is also enhanced from 6% to 7.5% p.a. on the total compensation of Rs.41,000/- from the date of petition till realization. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the Civil Miscellaneous Appeal shall stand closed.

A. SHANKAR NARAYANA,J

12th September, 2017
gbs

