

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

C.M.A.No.4476 OF 2004

JUDGMENT:

Aggrieved over the order and decree, dated 07.07.2004, in O.P.No.795 of 2000 on the file of IV Additional District and Sessions Judge (Fast Track Court) – cum – Chairman, Motor Accidents Claims Tribunal, Ranga Reddy District at L.B. Nagar, awarding Rs.76,000/- towards compensation, as against the claim of Rs.1,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), for the injuries sustained by the petitioner in the said O.P. in a road accident, the present appeal is preferred by the petitioner, under Section 173 of the Act, for grant of balance amount.

2. Heard Sri T.Viswarupa Chary, learned counsel for the appellant, and Sri G. Vasantharayudu, learned Standing Counsel for respondent No.2 – New India Assurance Company Limited.

3. In the cause title of grounds of appeal itself, it is stated that respondent No.1, owner of the crime vehicle, remained *ex parte* before the Tribunal and, therefore, he is not a necessary party to the present appeal.

4. It is not in dispute that the appellant sustained fracture of both bones of left leg and undergone treatment under PW.2, and the case sheet, marked as Ex.X1, would disclose the same. The Tribunal, by the order under challenge, granted Rs.20,000/- towards first fracture, Rs.10,000/- towards second fracture and Rs.6,000/- towards

multiple injuries, besides granting Rs.20,000/- towards medical expenses, as against Rs.30,000/- claimed basing on the medical records, and Rs.20,000/- towards loss of temporary earnings, thus, making a total of Rs.76,000/-, but, however, discarded 30% disability spoken to by PW.2.

5. It is no doubt true, PW.2 has spoken about 30% disability, but, he has not issued any certificate. The appellant also has not filed any certificate issued by the Medical Board to show that he sustained 30% permanent disability. However, when, kept in view, the injuries sustained by the appellant and the treatment he had undergone as inpatient, since the Tribunal, without assigning any reason, reduced the medical expenses from Rs.30,000/- to Rs.20,000/-, the balance amount of Rs.24,000/- has to be granted, to which the appellant is entitled.

6. Accordingly, the appeal is allowed granting Rs.1,00,000/- as compensation, as claimed by the appellant. The rate of interest awarded by the Tribunal at 9% per annum is maintained on the original amount of Rs.76,000/- awarded by the Tribunal and on the enhanced amount of Rs.24,000/-, the appellant is entitled to interest at 7.5% per annum, as per the decision of the Honourable Apex Court in **Rajesh and others v. Rajbir Singh and others**¹.

¹ (2013) 9 SCC 54

7. Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

August 02, 2017.
MD

