

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Civil Miscellaneous Appeal No.4314 of 2004

JUDGMENT:

On the ground that an amount of Rs.55,000/- granted by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Nalgonda, in M.V.O.P. No.188 of 1997, by his order dated 14.6.2000, is very meagre for the injuries sustained by the petitioner, which are deformity of swelling of left knee thigh, two abrasions and one laceration, and the first injury, being grievous in nature, and the petitioner/claimant having undergone surgical intervention in Osmania General Hospital, and later undergone treatment at Apollo Nursing Home, as evidenced by the bunch of medical certificates, marked as Ex.A5, the petitioner/claimant preferred the present Appeal seeking to grant balance amount of compensation.

2. Heard Sri T. Viswarupa Chary, learned counsel for the appellant, and Sri N.J. Sunil Kumar, learned counsel for the 2nd respondent. The appeal was dismissed for default against the 1st respondent vide Court Order dated 8.2.2016.

3. It is not in dispute that the observations made by the Tribunal and even the observations made by the Tribunal in paragraph No.5 and on Issue No.2 indicating that the implants were inserted in left thigh of the petitioner. Though, he was initially discharged, but, however, he suffered with septic injury to the wound and formed the

pus, for which there was second surgical intervention to correct it. He spent Rs.70,000/- towards medical expenses.

4. The Tribunal, having taken note of the fact that the petitioner-claimant, initially, claimed Rs.50,000/- only, and later got it enhanced to Rs.1,50,000/-, but, somehow, the Tribunal awarded Rs.55,000/- under two different heads, first being, 'medical expenses' at Rs.25,000/- and the second for Rs.30,000/- awarded towards 'pain and suffering' overlooking the other heads and that itself would indicate that the Tribunal carried away by the original claim ignoring the enhanced claim introduced through the amendment. When the observation of the Tribunal made in paragraph-5 are kept in view, since original records are destroyed, as per the intimation of the Tribunal, certainly, for two surgical interventions the amount of Rs.30,000/- granted towards 'pain and suffering', including injuries. The petitioner being agricultural coolie towards 'loss of temporary earnings' even at the rate of Rs.1,500/- per month at least for a period of six months during which he was disabled to attend to any avocation a sum of Rs.9,000/- is awarded, besides a sum of Rs.10,000/- towards 'extra nourishment', towards 'attendant charges' a sum of Rs.6,000/- is awarded keeping in view that at least Rs.1,000/- would have paid to look after him for a period of six months. Towards 'transportation' charges a sum of Rs.3,000/- is awarded. On examination of the medical bills, it is found that the petitioner-claimant incurred an amount of Rs.17,329/-, but, however, the tribunal awarded an amount

of Rs.25,000/- towards 'medical expenses' and hence the same is maintained. Thus, in all, the petitioner is entitled to a sum of Rs.83,000/- (Rupees Eighty Three thousand only).

5. In the result, the appeal is partly allowed enhancing the compensation from Rs.55,000/- (Rupees Fifty five thousand only) to Rs.83,000/- (Rupees Eighty three thousand only). The rate of interest awarded at 12% p.a. on Rs.55,000/- is maintained and on the enhanced amount of Rs.28,000/- (Twenty Eight thousand only) interest at the rate of 7.5% per annum is awarded keeping in view of decision in **Rajesh v. Rajbir**. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in these Civil Miscellaneous Appeal shall stand closed.

Dt. 12.10.2017
gbs

A. SHANKAR NARAYANA

