

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

C.M.A. No.4078 OF 2004

JUDGMENT:

The present Civil Miscellaneous Appeal is preferred by the petitioner in O.P. No.320 of 2001, on the file of Chairman, Motor Accidents Claims Tribunal - cum - II Additional District Judge, Nalgonda (for short 'Tribunal') under Section 173 of the Motor Vehicles Act, 1988 (for short 'Act'), aggrieved over the order and decree, dated 25.05.2004, passed in the aforesaid O.P., whereby and where-under, the Tribunal awarded a sum of Rs.11,000/- as compensation as against the claim of Rs.50,000/- laid under Section 166 of the Act.

2. The appellant herein is the petitioner in the aforesaid O.P., while respondent Nos.1 and 2, who are owner and insurer of Lorry bearing registration No.AAT 5215, respectively, are arrayed as respondents as such.

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

4. Heard Sri M. Madhava Reddy, learned counsel for the appellant - petitioner, and Sri Narsi Reddy Teegala, learned standing counsel for respondent No.2 - Insurer. Though, notice was served on respondent No.1, owner of the vehicle, none appears for him.

5. Perused the order and the material on record, both, oral and documentary.

6. On perusal of the record, it shows that for the grievous injuries sustained by the petitioner which was fracture of right thigh, where the bone was also exposed which was treated by the Area Hospital, Miryalguda for about two days while he was in-patient and later treated in Mother Theresa Hospital, Miryalguda, where surgical intervention was done by fixing a steel rod on the thigh bone which implant was not yet removed even by the date of filing the claim petition or by the date of order passed by the Tribunal. When the Tribunal awarded Rs.11,000/- towards compensation, the same aggrieved the petitioner and, thus, he filed the present appeal as his claim for Rs.50,000/- was not acceded to.

7. The Tribunal, somehow, without proper appreciation of evidence, has granted Rs.6,000/- towards pain and suffering and Rs.5,000/- towards medical expenses though, the petitioner had undergone the operation to right thigh with implantation of steel rod, which would be causing inconvenience to him throughout and unless the implant is removed. It is no doubt true, the accident relates to the year 2001, but however, where the claim itself is for Rs.50,000/-, awarding Rs.6,000/- towards pain and suffering and Rs.5,000/- towards medical expenses is far below by any standard. Since the amounts under other relevant heads were not awarded by the Tribunal,

the amount of Rs.50,000/- claimed by the petitioner is granted as against the amount of Rs.11,000/- awarded by the Tribunal.

8. Concerning rate of interest, the Tribunal awarded the same at 9% per annum, the same is maintained, but on the enhanced amount of Rs.39,000/-, rate of interest at 7.5% per annum is awarded in view of the decision of the Hon'ble Supreme Court in **Rajesh v. Rajbir Singh**¹.

9. In the result, the appeal is allowed and the order and decree, dated 25.05.2014, passed by the Tribunal in O.P. No.320 of 2001 are modified enhancing the compensation to Rs.50,000/- (Rupees fifty thousand) from Rs.11,000/- maintaining the award of interest at the rate of 9% per annum on the amount of Rs.11,000/- granted by the Tribunal and at the rate of 7.5% per annum on the enhanced amount of Rs.39,000/- from the date of petition till realization. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in these appeals, stand disposed of.

A. SHANKAR NARAYANA, J

October 25, 2017.

Mgr

¹. (2013) 9 SCC 54