

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No. 2532 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-petitioner in O.P. No.1490 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad (for short, 'the Tribunal'), having got dissatisfied with the award of compensation of Rs.90,000/- with interest at the rate of 9% per annum from the date of petition till realisation, granted by the Tribunal, *vide* the order dated 17.02.2005, as against the claim of Rs.2,00,000/- laid under Section 166 of the Act for the injuries sustained by him in a motor accident occurred on 04.07.2002.

2. Heard the learned counsel for the appellant-petitioner and the learned Standing Counsel for respondent No.2-insurer. The appeal against respondent No.1-owner of the crime vehicle is dismissed on 05.01.2012 for default. However, dismissal of the appeal for default against respondent No.1-owner of the vehicle is of no consequence to decide the quantum of compensation, in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**¹.

3. The parties hereinafter are referred to as arrayed before the Tribunal.

4. Learned counsel for the appellant-petitioner would contend that the petitioner suffered grievous and simple injuries; he was hospitalised for more than 40 days; he suffered 30% disability; he has to

¹ 2001(1) ALT 495 (D.B.)

undergo one more operation to remove nails fixed in his left leg; the Tribunal granted only compensation of Rs.90,000/- against the claim of Rs.2,00,000/-, which is not just and reasonable; and ultimately, prayed to enhance the compensation as claimed.

5. On the other hand, learned Standing Counsel for respondent No.2-insurer would submit that the Tribunal analysing the entire evidence on record, granted compensation of Rs.90,000/-; there is no permanent disability suffered by the petitioner as contended by him; there are no circumstances to enhance the compensation; and ultimately, prayed to dismiss the petition.

6. There is no dispute with regard to the petitioner suffering injuries in the accident occurred due to the rash and negligent driving of the driver of Maruthi car bearing No.AP 28R 5823.

7. The only point that is to be considered is, whether the petitioner is entitled for enhancement of compensation?

8. There is evidence of P.W.1, P.W.2 and the documents Ex.A.1-certified copy of F.I.R., Ex.A.2-certified copy of charge sheet, Ex.A.3-certified copy of scene of offence, Ex.A.4-certified copy of medico legal case sheet, Ex.A.5-discharge summary, Ex.A.6-discharge bill, Ex.A.7-cash bill and Ex.A.8-copy of insurance policy, Ex.X.1-X-ray with report and Ex.X.2. There is no oral evidence on behalf of the respondents. A copy of insurance policy of the crime vehicle was marked as Ex.B.1. The evidence on record establishes that the petitioner suffered fracture to his shaft of femur, left leg and undertook treatment with P.W.2-doctor. A nail was inserted for that injury. P.W.2 issued Ex.A.6-discharge bill for an amount of Rs.23,125/- and the petitioner requires Rs.15,000/- for removal of nail.

Ex.X.2 is the disability certificate. As per the evidence on record, the petitioner was 50 years old and earning Rs.3,000/- per month. The Tribunal taking into consideration the entire evidence on record, granted Rs.45,000/- towards hospital expenses, transportation, etc. The Tribunal has also granted Rs.9,000/- towards loss of earnings @ Rs.1,500/- per month for six months. Further, the Tribunal granted an amount of Rs.35,000/- for pain and suffering and disability. In all, the Tribunal granted Rs.90,000/- to the petitioner against respondent Nos.1 and 2 with interest at 9% per annum from the date of petition till the date of realisation. It is also appropriate to state that the disability certificate marked as Ex.X.2 was filed. The petitioner was not examined by medical board to assess the disability. The Tribunal granted some amount for disability. The finding recorded by the Tribunal is based on the evidence on record. The Tribunal took all the facts into account and there are no circumstances to interfere with the said finding. The appeal is devoid of merits and it is liable to be dismissed.

9. In the result, this appeal is dismissed confirming the order dated 17.02.2005 passed by the Tribunal in O.P.No.1490 of 2002. There shall be no order as to costs.

10. Miscellaneous Petitions pending, if any, shall also stand dismissed.

Dr. SHAMEEM AKTHER, J

Date: 23.10.2017

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