

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

M.A.C.M.A.No.947 of 2006

JUDGMENT:

Heard Sri Gurnam Singh, learned counsel for the petitioner and Sri N.S.Bhaskar Rao, learned Standing Counsel for 2nd respondent Insurance Company.

2. The present appeal is filed under Section 173 of Motor Vehicles Act by the claimant/appellant herein, seeking enhancement of compensation awarded by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Adilabad in O.P.No.684 of 2002. It is a case of injuries.

3. According to the claimant/appellant herein, the accident took place on 31.5.2002 at about 10.00 a.m., when he was returning to his house along with his friends on a bicycle and when he reached near Neradigonda bus stand, one lorry bearing No.KA-05-D-7959 came in opposite direction in a rash and negligent manner, dashed the petitioner's cycle, as a result of which, claimant fell down and received crush injuries to his right leg and injuries to hand. Thereafter, police registered Crime No.33 of 2002 against the lorry driver under Section 338 of IPC. Claiming a sum of Rs.4,00,000/- towards compensation for the injuries sustained, the claimant filed O.P.No.684 of 2002. The owner of the offending vehicle remained exparte before the Tribunal and the 2nd respondent Insurance Company contested the O.P. by filing counter. On the basis of the material available before the Tribunal, the Tribunal framed the following points for consideration:

1. Whether the petitioner sustained injuries in the accident occurred on 31.5.2002 due to rash and negligent driving of vehicle bearing No.KA-05-D-7959, by its driver?
2. Whether the petitioner is entitled for any compensation? If so, to what amount and against, which of the respondents?
3. To what relief?

4. In order to substantiate his case, the claimant/appellant herein examined himself as P.W.1 and marked Exs.A1 to A3 on his behalf. On the other hand, neither oral nor documentary evidence was adduced on behalf of Insurance Company. Admittedly, no appeal has been filed by the Respondent Insurance Company as against the impugned award. The finding of the Tribunal as to rash and negligent driving while dealing Issue No.1 has attained finality. Therefore, the only issue that remains for consideration of this Court is as to whether the amount awarded by the Tribunal is just and reasonable. Though the claimant/appellant claimed a sum of Rs.4,00,000/- towards compensation, the Tribunal granted a sum of Rs.25,000/-.

5. A reading of the impugned award shows that the Tribunal restricted the quantum of compensation to such an extent on the ground that the claimant did not examine the Doctor concerned to prove Ex.A2. However, on the basis of the said document, the Tribunal felt that an amount of Rs.25,000/- would be reasonable. Admittedly, the claimant herein, at the time of accident was a student, studying Intermediate. It is further evident from the impugned award that in fact claimant made certain efforts to examine the concerned Doctor in Gandhi Hospital, Secunderabad, but could not trace out the whereabouts of the Doctor as he retired from service. Ex.A2 document, which is a report of the Medical Officer of the Civil

Assistant Surgeon, District Headquarters Hospital, Adilabad dated 31.5.2002 shows that the claimant was treated as outpatient and the concerned Doctor also indicated therein that the claimant sustained crush injury to his right leg and also about gangrene and amputation and also multiple injuries to his left hand. Taking into consideration the avocation of the claimant at the relevant point of time and the above said document, this Court deems it appropriate to enhance the compensation from Rs.25,000/- to Rs.1,00,000/-.

6. For the aforesaid reasons, this appeal is allowed in part, enhancing the compensation from Rs.25,000/- to Rs.1,00,000/- payable by the Respondent Insurance Company with proportionate costs and subsequent interest @ 7.5% per annum from the date of petition till the date of realisation. The Respondent Insurance Company is directed to deposit the compensation amount together with interest and costs within a period of one month from the date of receipt of this order. On such deposit, the claimant/appellant herein is entitled to withdraw the same. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 22.11.2017
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A.V.SESHA SAI, J



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