

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.401 OF 2014

JUDGMENT:

The present appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short 'Act'), aggrieved over the order and decree, dated 01.02.2011, passed by the Chairman, Motor Accidents Claims Tribunal - cum - V Additional District Judge (Fast Track Court), Kurnool at Nandyal (for short 'Tribunal') in M.V.O.P. No.403 of 2008 awarding a sum of Rs.3,04,000/- as compensation as against the claim laid for Rs.4,00,000/- under Section 166 of the Act.

2. The appellant herein is petitioners in the aforesaid M.V.O.P. while respondent Nos.1 and 2, who are owner and insurer of Proclainer bearing registration No.NL 30917, respectively, are respondents as such.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed in the aforesaid MVOP before the Tribunal.

4. In a case of amputation of left leg, where the petitioner was working as Site Supervisor when the accident took place, the Tribunal having worked out the disability at 100% as against the doctor's certification of 70%, where the petitioner was aged 50 years and multiplier factor '11' was applied, fixing the monthly income as Rs.2,000/- which appears to be abnormally low as the pronouncements of the Hon'ble Supreme Court are to the effect that

even a coolie would be earning Rs.3,000/- per month minimum, the Tribunal awarded a total sum of Rs.3,04,000/- which constitutes Rs.2,64,000/- towards pecuniary loss; Rs.20,000/- towards pain and suffering; Rs.20,000/- loss of future amenities and awarded the same with interest at 6% per annum *pendente lite* and at 7.5% per annum post decree.

5. Heard Sri G. Sravan Kumar, learned counsel for the appellant - petitioner and Sri N. Mohan Krishna, learned standing counsel for respondent No.2 - Insurer. Respondent No.1 though served with notice, has not entered appearance. However, he suffered decree.

6. There is no need to probe into by resorting to the structural formula once again, taking the income somewhere between Rs.2,500/- and Rs.3,000/- per month.. On the other hand, since it is a case of amputation, the balance amount of Rs.96,000/- for which the present appeal is filed can be allowed which would meet the ends of justice.

7. Accordingly, the appeal is allowed enhancing the compensation to Rs.4,00,000/- (Rupees four lakhs only) from Rs.3,04,000/- with interest at the rate of 7.5% per annum thereon from the date of petition till realization. Thus, the order and decree, dated 01.02.2011, passed by the Tribunal in M.V.O.P. No.403 of 2008 are modified to that extent. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal shall stand closed.

A. SHANKAR NARAYANA, J

October 20, 2017
Mgr

