

HON'BLE DR. JUSTICE SHAMEEM AKTHER

MACMA No.642 OF 2006

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is filed by the appellant, who is the petitioner in M.V. O.P. No.999 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge, Guntur, (for short, 'the Tribunal'), having got dissatisfied with the award of compensation of Rs.1,36,500/- with interest @ 6% per annum from the date of petition till realisation granted by the Tribunal, as against the claim of Rs.7,00,000/-.

The parties in the appeal hereinafter referred as arrayed before the Tribunal for the sake of convenience.

The brief facts of the case are that on 28.05.2001 at about 11.00 p.m. when the claim petitioner was going to Mylavaram by his Suzuki motor cycle and when he reached Navabharatpet, Penuganchiprolu Mandal, Krishna District, one goods lorry bearing No.AP 16 V 8182, hit the petitioner, as a result of which he sustained grievous injuries and permanent disability.

The first respondent/owner of crime lorry remained exparte before the Tribunal.

The second respondent/insurer of lorry filed counter before the Tribunal stating that the crime vehicle was not insured and there is contributory negligence on the part of the petitioner. Hence, prayed to dismiss the claim petition.

Upon perusal of the entire material on record, the Tribunal awarded an amount of Rs.1,36,500/- with interest @ 6% per

annum from the date of petition till realization against the respondents. Aggrieved by the same, the present appeal is filed.

Heard the learned counsel for the petitioner and the second respondent.

The learned counsel for the petitioner vehemently submits that the trial court has granted compensation of Rs.1,36,500/- without considering the injuries and the disability sustained by the petitioner.

On the other hand, learned counsel for the second respondent would submit that the compensation awarded by the Tribunal is just, nothing left to decide and there are no circumstances to interfere with the award under the challenge.

In view of the contentions put forth, both the counsel have conceded that there was rash and negligence on the part of the driver of the crime vehicle and there is valid insurance on the date of accident. Therefore, those points are not determined again.

The only point that arise for determination is, whether the compensation of Rs.1,36,500/- with interest @ 6% per annum is just and reasonable?

The petitioner was examined as P.W.1 and the doctor, who examined the petitioner at Vijayawada, as P.W.2 to prove that the petitioner sustained injuries and the disability due to the injuries suffered in the accident and marked Exs.A.1 to A.14.

Considering the evidence on record, the Tribunal awarded an amount of Rs.72,500/- towards medical expenses, an amount of Rs.2,000/- towards special diet, Rs.3,000/- towards transportation charges, Rs.16,000/- towards pain and suffering, Rs.2,000/- towards extra nourishment, Rs.5,000/- towards attendant

charges, Rs.36,000/- towards permanent disability, Rs.5,000/- towards damage of the vehicle. In total the Tribunal awarded compensation of Rs.1,36,500/- to the petitioner. While determining the above compensation, the Tribunal has not left any ground on which the compensation can be enhanced.

As seen from the record, the Tribunal awarded the above said compensation with interest @ 6% per annum only. As per the settled principle laid down by the Apex Court in *Rajesh Vs Rajbir Singh*¹ the interest shall be @ 7.5% per annum. In these circumstances, the interest can be enhanced from 6% to 7.5% P.A.

Therefore, the award passed by the Tribunal is confirmed enhancing the rate of interest to 7.5% per annum. There are no other circumstances to interfere with the award passed by the Tribunal in other respects. The petitioner is permitted to withdraw the entire amount.

The appeal is partly allowed, modifying the rate of interest from 6% to 7.5% per annum from the date of petition till the date of realization. No order as to costs.

Miscellaneous Petitions pending, if any, in this appeal shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 27.01.2017
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¹ 2013 ACJ 1403