

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

Civil Miscellaneous Appeal Nos. 2799, 2806 and 2807 of 2004

COMMON JUDGMENT:

All these three appeals were preferred by the petitioners/claimants seeking enhancement of the compensation under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') on the ground that the amounts of Rs.70,000/- as against Rs.1,03,500/- in O.P.No.609 of 2000; Rs.65,000/- as against Rs.1,22,500/- in O.P. No.607 of 2000; and Rs.50,000/- as against Rs.1,00,000/- in O.P. No.608 of 2000 respectively, on the file of the Chairman, Motor Accidents Claims Tribunal (Additional District Judge) at Nizamabad, for the injuries they sustained when Tata Sumo Van bearing No.AP-10-L-7830, in which they were traveling, met with an accident on account of rash and negligent driving of the driver of the vehicle it was fell into a pit by the side of the road and turned turtle, awarded towards compensation were very meager and inadequate.

2. Heard Smt. K. Sarala Mahender Reddy, learned counsel for the appellant in all these Civil Miscellaneous Appeals. So far as the respondents 1 and 2 are concerned, appeals were dismissed on 8.2.2016, but the said dismissal is of no consequence in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**¹. Though process

¹ 2001(1) ALT 495 (D.B.)

was completed on 3rd respondent– Oriental Insurance Company Limited, none appears.

3. Before the Tribunal, respondents 1 and 2, who are the driver and owner of the vehicle remained *ex parte*. The 3rd respondent – Oriental Insurance Company Limited – resisted the claim taking usual pleas. Upon which, the Tribunal framed identical issues in all the three claim petitions and marked relevant documents by examining the claimants, and one more witness. On behalf of the respondents, except exhibiting Ex.B1, copy of policy on consent, no other documents were filed and no witnesses were examined.

4. Now, the short point that arises for consideration in all these appeals is whether the appellants are entitled to enhancement of compensation as prayed for?

C.M.A. No.2799 of 2004:

5. The Tribunal awarded a sum of Rs.60,000/- for the fracture of 3rd and 4th ribs and head injury, besides granting a sum of Rs.5,000/- towards medicines and extra nourishment, a sum of Rs.5,000/- towards past and future pain and suffering, and, thus, making a total sum of Rs.70,000/-. Fracture of ribs, certainly, would disable the appellant to attend regular activities for quite some time, more particularly, when the petitioner is a labourer, in which case while maintaining the amount of Rs.60,000/- granted towards fractures, the amount of Rs.5,000/- granted towards medicines and

extra nourishment is enhanced to Rs.10,000/-; the amount of Rs.5,000/- towards past and future pain and suffering and the amount of Rs.1,000/- granted towards transportation charges is maintained. Since no amount is granted towards temporary loss of earnings, a sum of Rs.5,000/- is granted. Thus, the petitioner-appellant is entitled to Rs.81,000/- as against Rs.70,000/- awarded by the tribunal. The rate of interest awarded by the Tribunal at 9% p.a. is maintained on Rs.70,000/- and on the enhanced amount of Rs.11,000/- the rate of interest at 7.5% p.a. is awarded from the date of claim petition till realization keeping in view the ruling in **Rajesh v. Rajbir Singh**².

C.M.A. No.2806 of 2004:

6. The petitioner sustained fracture to her scalp, fracture to skull and other injuries to brain and other parts of her person. The Tribunal, having noted the evidence of P.W.2 and documentary evidence, Ex.A3 Wound Certificate, awarded a sum of Rs.55,000/- towards injuries, a sum of Rs.5,000/- towards medicines and for extra nourishment, a sum of Rs.5,000/- towards past and future pain and suffering and thus, making a total sum of Rs.65,000/-. The amount of Rs.55,000/- awarded by the Tribunal for the injuries is to be reasonable and, therefore, the same is maintained. So far as Rs.5,000/- granted towards medicines and extra nourishment, the same is enhanced to Rs.10,000/- and the amount of Rs.5,000/- granted towards past and future pain and suffering is maintained. Since no

² (2013) 9 Supreme Court Cases 54

amount was granted towards temporary loss of earnings, a sum of Rs.5,000/- is granted. The amount of Rs.1,000/- granted towards transportation charges is maintained. Thus, the petitioner-appellant is entitled to Rs.76,000/- as against Rs.65,000/- awarded by the tribunal. The rate of interest awarded by the Tribunal at 9% p.a. is maintained on 65,000/- and on the enhanced amount of Rs.11,000/- the rate of interest at 7.5% p.a. is awarded from the date of claim petition till realization keeping in view, the ruling in **Rajesh**².

C.M.A. No.2807 of 2004:

7. The Tribunal, having found that the appellant sustained fracture to her shoulder, multiple injuries on other parts of her person, and basing on the evidence of P.W.2, and Ex.A3, Wound Certificate and Ex.A20 Discharge Summary, awarded a sum of Rs.40,000/- towards injuries; a sum of Rs.5,000/- towards medicines and extra nourishment, a sum of Rs.5,000/- towards past and future pain and suffering and thus, making a total compensation of Rs.50,000/-. The amount of Rs.40,000/- granted by the Tribunal is reasonable for the injuries and concerning the amount of Rs.5,000/- granted towards medicines and extra nourishment the same is enhanced to Rs.10,000/-; the amount of Rs.5,000/- towards past and future pain and suffering is maintained. Since no amount is granted towards temporary loss of earnings, a sum of Rs.5,000/- is granted. The amount of Rs.1,000/- granted towards transportation charges is maintained. Thus, the petitioner-appellant is entitled to Rs.61,000/- as against Rs.50,000/-

awarded by the tribunal. The rate of interest awarded by the Tribunal at 9% p.a. is maintained on 50,000/- and on the enhanced amount of Rs.11,000/- the rate of interest at 7.5% p.a. is awarded from the date of claim petition till realization keeping in view, the ruling in **Rajesh**².

8. In the result, all these Appeals are partly allowed to the extent indicated above. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in these Civil Miscellaneous Appeals shall stand closed.

Dt. 01.09.2017
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A. SHANKAR NARAYANA

