

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.245 OF 2014

JUDGMENT:

The present appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), seeking enhancement of compensation on the ground that the amount of Rs.57,000/- awarded by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Nalgonda, by the order dated 30.07.2010 in O.P.No.357 of 2008, is meagre for the injuries sustained by the appellant - petitioner.

2. The appellant herein is the petitioner, while respondent Nos.1 to 3, who are the driver, owner and insurer of the Tata Sumo bearing registration No.AP-16-AM-3594, respectively, were respondent Nos.1 to 3, respectively, in the original petition.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. Heard Sri Venkateswarlu Valmiki, learned counsel for the appellant – petitioner, and Sri Ramachandra Reddy Gadi, learned Standing Counsel for respondent No.3 –United India Insurance Company Limited. So far as respondent Nos.1 and 2 are concerned, the appellant himself has endorsed in the cause title of the memo of grounds of appeal that they are not necessary, perhaps for the reason that they suffered decree before the Tribunal by remaining *ex parte*.

5. Now, turning to the fact-situation, there is no dispute between the parties.

6. The only dispute is whether the amount awarded is in accordance with the sufferance undergone by the petitioner and whether it would represent just and adequate compensation as contemplated by the provisions of the Act.

7. A perusal of the evidence of PW.2, the Civil Assistant Surgeon, would clearly indicate that the petitioner sustained grievous injuries i.e., two fractures, first being fracture of upper tibia on the right side, and the second, fracture of humerus left side, and other six simple injuries, as could be seen from Exs.C1 and C2. Though, the Medical Board endorsed 25% partial permanent disability, the same was not taken into consideration on the ground that the petitioner himself left the hospital against medical advice and, had he continued the treatment, the disability percentage must have been reduced. The Tribunal has awarded Rs.15,000/- per fracture and Rs.2,000/- per simple injury. When kept in view, the two fracture injuries and other six simple injuries sustained by the petitioner to both his arms and limbs, certainly, he would have been disabled for quite some time. In such an event, the amount of Rs.30,000/- @ Rs.15,000/- per fracture awarded by the Tribunal appears to be on lower side and, therefore, the same is enhanced to Rs.40,000/- @ Rs.20,000/- per fracture. For six simple injuries, the amount of Rs.12,000/- @ Rs.2,000/- per injury awarded by the Tribunal is enhanced to Rs.18,000/- @ Rs.3,000/- per

injury. Towards extra-nourishment and other charges, which the Tribunal has not indicated and which might be perhaps towards transport charges and attendant charges, the amount of Rs.5,000/- granted by the Tribunal is enhanced to Rs.10,000/-. The Tribunal has granted Rs.10,000/- towards disability, though, it did not consider partial permanent disability at 25%. However, keeping in view, the sufferance undergone by the petitioner, the amount granted towards disability is enhanced to Rs.15,000/-. Towards loss of temporary earnings, no amount was awarded by the Tribunal. Therefore, a sum of Rs.6,000/- would be adequate under the said head and, accordingly, the same is granted.

8. Thus, the petitioner is entitled to a total sum of Rs.89,000/- (Rupees eighty nine thousand only), as against Rs.57,000/- granted by the Tribunal, towards compensation and the same is, accordingly, granted.

9. So far as the rate of interest is concerned, the Tribunal granted the same at 7.5% per annum and the same is maintained on Rs.89,000/- from the date of the petition till realisation as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**¹.

10. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the

¹ 2013 ACJ 1403

compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

11. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.

JUSTICE A.SHANKAR NARAYANA

09th October, 2017
v v

