

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

Civil Miscellaneous Appeal Nos.4356 and 4359 of 2004

COMMON JUDGMENT:

Both these 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.1,01,000/- as against Rs.2,00,000/- in O.P. No.863 of 2000; and Rs.33,600/- as against Rs.2,00,000/- in O.P. No.869 of 2000 respectively, under Section 166 of the Motor Vehicles Act, 1988 and Rule 455 of A.P. Motor Vehicles Rules, 1989, on the file of the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short, 'the Tribunal'), for the injuries they sustained when Commander Jeep bearing No.AP-11-E-8844, belonging to the 1st respondent, in which they were travelling, met with an accident on account of rash and negligent driving of the driver of the vehicle it was dashed against the jeep bearing No.AP-22-6777, awarded towards compensation were very meager and inadequate.

2. Heard Sri J. Srinivasa Rao, learned counsel for the appellant in both these Civil Miscellaneous Appeals. So far as the respondent No.1 is 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 others¹. Heard Sri P. Harinath Gupta, learned Standing Counsel for the 2nd respondent-Insurance Company in CMA No.4356 of 2004; and Smt. A. Jayanthi, learned Standing Counsel for the 2nd respondent-Insurance Company.

3. Before the Tribunal, respondents 1 and 2 resisted the claim taking usual pleas. The Tribunal framed identical issues in both these claim petitions and marked relevant documents by examining the claimants and two more witnesses. No oral or documentary evidence is adduced on behalf of the respondents in both these appeals.

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

5. There is no dispute in regard to the fact situation, but the only dispute is in regard to the compensation.

C.M.A. No.4356 of 2004:

6. Turning to C.M.A.No.4356 of 2004 though, the Tribunal went on discussing various issues, but, so far as description of injuries are concerned though referred to Ex.A4-Discharge Summary, even otherwise it is found to be that the petitioner sustained two fractures over her facial region. As can be seen from the discussion in paragraph No.10 of the order under challenge, the Tribunal for the

¹ 2001(1) ALT 495 (D.B.)

two fractures granted Rs.25,000/- towards 'pain and suffering' and Rs.75,000/- towards 'medical and other expenses', Rs.500/- towards 'transportation to hospital' and Rs.500/- towards 'damages to clothing and articles' on account of the accident. Thus, in all, the petitioner-claimant is awarded a sum of Rs.1,01,000/- by the Tribunal.

7. However, keeping in view the observations made by the Tribunal and the two fractures over the facial region, an amount of Rs.25,000/- granted by the Tribunal is enhanced to Rs.50,000/- towards 'pain and suffering' proportionately at Rs.12,500/- each on two fractures; towards 'medical and other expenses' an amount of Rs.75,000/- granted by the Tribunal is maintained. So far as 'transportation charges to hospital' and for causing 'damages to her clothing and articles', awarded a sum of Rs.500/- and Rs.500/- respectively by the Tribunal is maintained. Since the Tribunal has not awarded any amount towards 'extra nourishment', a sum of Rs.5,000/- is awarded for the same.. Thus, the petitioner-appellant is entitled to Rs.1,31,000/- as against Rs.1,01,000/- awarded by the tribunal. The rate of interest awarded by the Tribunal at 9% p.a. is maintained on Rs.1,01,000/- and on the enhanced amount of Rs.30,000/- 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.

² (2013) 9 Supreme Court Cases 54

C.M.A. No.4359 of 2004:

8. The Tribunal awarded a sum of Rs.12,500/- towards 'pain and suffering'; Rs.18,000/- towards 'medical treatment and extra nourishment', besides granting a sum of Rs.2,000/- towards 'transportation to hospital' and a sum of Rs.1,000/- for 'causing damages to her clothing and articles'. Though, there is no material so far as the other component is concerned, however, keeping in view the observations made by the Tribunal and the injury being grievous in nature an amount of Rs.12,500/- granted by the Tribunal is enhanced to Rs.25,000/- towards 'pain and suffering'; the amount of Rs.18,000/- towards 'medical expenses' is maintained since it is based on Ex.A5 medical bills. So far as 'transportation charges to hospital' and for 'causing damages to her clothing and articles', awarded a sum of Rs.2,000/- and Rs.1,000/- respectively are concerned, they are maintained. Since the Tribunal has not awarded any amount towards 'extra nourishment', a sum of Rs.5,000/- is awarded for the same. Thus, the petitioner-appellant is entitled to Rs.51,000/- as against Rs.33,500/- awarded by the tribunal. The rate of interest awarded by the Tribunal at 9% p.a. is maintained on Rs.33,500/- and on the enhanced amount of Rs.17,500/- 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.

² (2013) 9 Supreme Court Cases 54

9. In the result, both 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 both these Civil Miscellaneous Appeals shall stand closed.

A. SHANKAR NARAYANA

Dt. 12.10.2017
gbs

