

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.371 OF 2014

JUDGMENT:

The present appeal is preferred by the claimant/petitioner in O.P.No.103 of 2007 on the file of Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge (I, F.T.C.) at Nalgonda, aggrieved over the order, dated 24.03.2011, passed in the said O.P., awarding compensation of Rs.83,000/- with interest at the rate of 7.5% per annum and directing the 3rd respondent to pay compensation, while dismissing the claim petition against respondents Nos.1 and 2, who are the erstwhile owner and insurer of the accident vehicle, respectively.

2. The appellant laid the claim for award of Rs.1,75,000/- as compensation under Section 166 of the Motor Vehicles Act, 1988, for the injuries sustained by him in a road accident, while he was traveling in his Auto, whereas another auto, which is the accident vehicle herein, came in opposite direction and dashed the auto, in which he was travelling.

3. Heard Sri. N.Mukunda Reddy, learned counsel for the appellant. In the cause title to the grounds of appeal, the appellant has endorsed that respondent Nos.1 and 2 are not necessary parties. Respondent No.3, is admittedly, insurer and against it no decree was passed.

4. Though respondent No.3 entered appearance, there is no representation.

5. There cannot be much dispute in regard to the fact situation occurring in the present case. The appeal is preferred by the claimant, but not by the opposite parties. The Tribunal basing on the evidence of Medical Officer, having found that the appellant sustained fracture of right radius, upper incisor (tooth), dislocation of right shoulder with abrasion, which are grievous in nature, bruise over left eye and laceration wound over right side skull, which were simple in nature, awarded Rs.35,000/- towards injuries, Rs.10,000/- towards pain and suffering, Rs.17,500/- towards medical expenses, based on the entries in Ex.A.4-bunch of bills, Rs.2,500/- towards extra-nourishment, Rs.1,000/- towards transportation and Rs.1,000/- towards attendant charges. Besides the same, a sum of Rs.10,000/- was awarded towards future surgery for removal of implants. The Tribunal also granted Rs.6,000/- towards loss of earnings during the period of suffering. Thus, a total sum of Rs.83,000/- was granted against the 3rd respondent alone.

6. Learned counsel for the appellant would submit that the amounts awarded by the Tribunal are very low, for the reason, the appellant sustained three grievous injuries and put to lot of inconvenience, as he could not gain normalcy within a reasonable period. Even the amount of Rs.6,000/- awarded towards temporary loss of earnings is on lower side, according to the learned counsel.

7. When examined the injuries sustained by the appellant, as recorded by the Tribunal, based on the evidence of P.W.2, the appellant had sustained three grievous injuries, for which a sum of Rs.35,000/- was awarded, which can be termed as on lower side. Therefore, towards each grievous injury a sum of Rs.20,000/- is awarded, thus, making a total of Rs.60,000/-, as against Rs.35,000/-. An amount of Rs.10,000/- awarded by the Tribunal towards pain and suffering is maintained. Even the amount of Rs.2,500/- granted towards extra-nourishment and Rs.1,000/- towards transportation are also maintained. However, an amount of Rs.1,000/- granted towards attendant charges is enhanced to Rs.3,000/-, keeping in view, the appellant must have continued the attendant for a period of three months at least. An amount of Rs.10,000/- was awarded by the Tribunal towards future surgery based on the assertion made by counsel and therefore, the same is maintained. An amount of Rs.6,000/- awarded towards loss of earnings by the tribunal is doubled, and thus, enhanced to Rs.12,000/-, for the reason that it would have taken not less than six months to continue his profession. An amount of Rs.17,500/- awarded towards medical expenses and the same is maintained. Thus, the appellant is totally entitled to Rs.1,16,000/-. Thus, the compensation awarded by the Tribunal is enhanced to Rs.1,16,000/-. The Tribunal granted interest at the rate of 7.5% per annum, the same is maintained on the enhanced amount

also, as it is in tune with the rate of interest awarded by the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**¹

8. Accordingly, the appeal is partly allowed. Miscellaneous petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

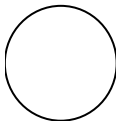
A. SHANKAR NARAYANA, J

October 20, 2017.
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¹ (2013) 9 SCC 54

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October 20, 2017

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