

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.288 OF 2014

JUDGMENT:

For the injuries sustained by the petitioner-claimant in a road accident when the Chairman, Motor Accidents Claims Tribunal.-cum-II Additional District Judge, Kadapa at Proddatur (for short, 'the Tribunal') awarded a sum of Rs.97,000/-, by his order dated 20.06.2011, the petitioner having got dissatisfied with the same, as he made the claim for Rs.3,00,000/- under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), preferred the present Appeal under Section 173 of the Act seeking enhancement.

2. Heard Sri K. Naga Phanindra, learned counsel, for Sri K. Rathanga Pani Reddy, learned counsel for the appellant and Sri B.Narayana Reddy, learned Standing Counsel for the 2nd respondent. Though, service was effected on the 1st respondent, none appears for him.

3. For the sake of convenience, the parties hereinafter will be referred to as they arrayed before the Tribunal.

4. There is no need to advert to the fact-situation and the nature of injuries sustained by the petitioner-claimant.

5. P.W.2- Dr. R. Viswanatha Reddy, Surgeon of Gowri Gopal Hospital, Kurnool, deposed that the petitioner was operated for rupture intestines near peritoneum jejunum near DJ junction and

peritoneal toilet is done and he was advised for one month's bed rest. Of course, he also asserts that for a period of one year it would be difficult for the petitioner-claimant to attend to his profession or avocation.

6. Relevant documents are also perused by the Tribunal and awarded a sum of Rs.27,000/- towards 'loss of temporary earnings' at the rate of Rs.75/- per day; Rs.10,000/- towards 'pain and suffering; Rs.6,000/- towards 'two simple injuries'; Rs.30,000/- towards 'hospital charges' as against Rs.49,500/-; Rs.12,500/- towards 'medicines'; and Rs.5,000/- towards transportation charges, making a total a sum of Rs.96,930/-, which is rounded off to Rs.97,000/- with interest at 7.5% p.a. from the date of petition till realization.

7. The learned counsel would submit that the amount awarded by the Tribunal is very low, whereas the learned Standing Counsel would support the order.

8. It is no doubt true that there is no permanent disability suffered by the petitioner as could be seen from the evidence of P.W.2 and it is also not the case where the petitioner sustained permanent disability. In such an event, except enhancing the amount from Rs.10,000/- awarded towards 'pain and suffering' to Rs.20,000/-, the other amounts granted by the Tribunal are maintained. Since the tribunal did not award any amount under the head 'extra nourishment', a sum of Rs.10,000/- is granted for the same. Keeping

in view the nature of injuries sustained by the petitioner-claimant, towards 'attendant charges' as no amount is granted by the Tribunal, certainly, the petitioner-claimant would have required an attendant for at least for a period of 3 months, a sum of Rs.6,000/- is granted at the rate of Rs.2,000/- per month. Thus, in all, the petitioner-appellant is entitled to Rs.1,23,000/-.

9. In the result, the Appeal is partly allowed enhancing the compensation from Rs.97,000/- (Rupees Ninety seven thousand only) to Rs.1,23,000/- (Rupees One lakh and twenty three thousand only) against the respondents 1 and 2. The rate of interest at 7.5% p.a. granted by the tribunal on Rs.97,000/- is maintained and at the same rate on the enhanced amount of Rs.26,000/- also from the date of claim petition till the date of realization keeping in view the ruling in **Rajesh v. Rajbir Singh**¹. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Civil Miscellaneous Appeal shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 26.10.2017
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¹ (2013) 9 Supreme Court Cases 54