

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.3132 OF 2005

JUDGMENT:

1. This Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is filed by the appellant-petitioner, aggrieved by the order dated 21.04.2005 passed in M.V.O.P. No.329 of 2000 by the Chairman, Motor Accidents Claims Tribunal-cum-VII Additional District Judge (Fast Track Court) Nizamabad at Bodhan (for short, 'the Tribunal').

2. Heard the learned counsel for the appellant-petitioner, learned standing counsel for the 2nd respondent-A.P.S.R.T.C. and perused the record.

3. Learned counsel for the appellant-petitioner would submit that the Tribunal had granted a compensation of Rs.15,000/- against the original claim of Rs.2,00,000/- with interest at the rate of 9% p.a. for the grievous injury *i.e.*, fracture to the right leg of the appellant and insertion of rod therein. The Tribunal has not taken into consideration the wound certificate marked as Ex.A-2 and the disability certificate marked as Ex.A-4 while awarding the compensation which is meager and ultimately prayed to enhance the compensation as prayed.

4. On the other hand, learned standing counsel for the 2nd respondent-A.P.S.R.T.C. would contend that the Tribunal has taken into all the factors into consideration while awarding just and reasonable compensation; the findings of the Tribunal are based on oral and documentary evidence. The Tribunal has assigned valid reasons for not granting compensation to the right leg fracture of the appellant; there are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the Appeal.

5. In the circumstances put forth by both parties, the only point requires to be determined is whether the appellant-petitioner is entitled for enhancement of compensation?

6. **POINT**: As seen from the evidence of P.W.1 and the documents marked *i.e.*, Ex.A-1 certified copy of F.I.R., Ex.A-2 certified copy of wound certificate, Ex.A-3 certified copy of charge sheet and Ex.A-4 disability certificate, the appellant is said to have suffered a fracture to his right leg. But, under Ex.A-2 wound certificate, there was no mention of taking x-ray, any fracture being found therein and the appellant failed to file the x-ray reports and medical record showing the treatment taken by him for the fracture, but simply stated that he suffered fracture to his right leg without producing relevant medical record. The Tribunal had analyzed the entire evidence on record, assigned valid reasons for not taking into account the alleged fracture suffered by the appellant on the ground that P.W.2, Orthopedic Surgeon, got examined by the appellant, is stated to have examined the appellant only on 10.08.2001 while the accident had occurred on 22.01.2000. If the appellant really suffered fracture to his right leg and rod was inserted therein, definitely he would have undergone some treatment, produced the medical record and case sheet showing such treatment. Non-production of relevant medical record by the appellant, it is not appropriate for the Court to believe that the appellant has suffered such a grievous injury. Hence, all the submissions raised on behalf of the appellant-petitioner are without any substance. No infirmity is found in the impugned order. The Appeal is devoid of merits and is liable to be dismissed.

7. In the result, the Appeal is dismissed confirming the order dated 21.04.2005, passed in M.V.O.P. No.329 of 2000 by the Tribunal.

8. As a sequel, pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

Dr. SHAMEEM AKTHER, J

Date: 09.10.2017.
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