

HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.434 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claim petitioner, aggrieved by the award dated 02.11.2005 passed in O.P.No.1612 of 2001 by the Motor Accidents Claims Tribunal-cum-II Additional District Judge (Fast Track Court) Nizamabad, to enhance the compensation.

2. Learned counsel for the appellant-claim petitioner contended that the Tribunal, while dealing with the O.P., granted a compensation of Rs.34,000/-. The Tribunal granted Rs.15,000/- towards injuries suffered by the appellant, Rs.5,000/- towards pain and suffering, Rs.9,250/- towards treatment expenditure and Rs.5,000/- towards loss of earnings. Though the appellant was 28 years old on the date of occurrence of the accident, working as stone-cutter and earning Rs.10,000/- per month, though disability certificate was marked as Ex.A.12, showing the disability suffered by the appellant at 70%, and though there is evidence of P.Ws.2 and 3, who deposed about the injuries sustained by the appellant in the accident, the Tribunal granted very meagre compensation and ultimately prayed to enhance the compensation to Rs.3 lakhs as claimed.

3. On the other hand, learned counsel appearing for respondent No.2-insurance company, contended that the Tribunal had taken all factors into consideration and rightly granted compensation based on

the evidence on record; there are no grounds to interfere with the order under appeal and ultimately prayed to dismiss the same.

4. There is no much contest with regard to the appellant suffering injuries in the road accident where the auto bearing No.AP-25-T-8761 on 08.10.2000 at 7.15 p.m., was dashed by a private bus hired with APSRTC bearing No.AP-25-G-9729, being driven in a high-speed and in a rash and negligent manner and the finding of the Tribunal that the accident occurred due to the rash and negligent driving of the private bus hired with the APSRTC bearing No.AP-25-G-9729. The evidence of appellant-P.W.1 and the documents marked, i.e. Ex.A.1, certified copy of charge sheet, Ex.A.2, wound certificate of the appellant, reveal that the accident occurred due to the rash and negligent driving of the said private bus hired with APSRTC, based on which the Tribunal recorded a finding that the accident took place due to the rash and negligent driving of the hired APSRTC bus. The said finding is based on record and therefore no other finding can be substituted.

5. As per Ex.A.2, wound certificate of the appellant, the appellant suffered injuries, viz., fracture of right femur and superficial abrasion. P.Ws.2 and 3, Doctors, supported the case of the appellant. They are independent witnesses and there is nothing to disbelieve their testimony. Further, P.W.4 deposed that the appellant-claim petitioner

suffered injuries in the road accident caused by private bus hired with APSRTC bearing No.AP-25-G-9729. Nothing is elicited in the cross-examination of these witnesses to disbelieve their testimonies.

6. On behalf of the appellant, Ex.A.4 – medical bills to the tune of Rs.9,250/- is filed. Exs.A.5 to A.8 are pathological reports. Ex.A.9 is the copy of the insurance policy of the bus in question. Ex.A.10 is the photo with negative. Ex.A.11 is the prescription and Ex.A.12 is the disability certificate. Ex.A.13 is the X-ray film and Ex.A.14 is the certified copy of FIR. All these documents support the case of the appellant-claim petitioner. The injuries recorded by the claim petitioner, i.e. fracture of right femur and superficial abrasion on right leg, are upheld. There is nothing to disbelieve the said documents. There is medical record to show that the appellant-claim petitioner was not granted just compensation. Therefore, the same requires enhancement as follows:

7. The appellant-claim petitioner is entitled to Rs.30,000/- towards pain, suffering and the injuries suffered by him. The Tribunal had granted Rs.9,250/- towards the medical bills as exhibited in Ex.A.4 – medical bills; therefore award of the said amount is retained. The compensation of Rs.5,000/- granted by the Tribunal towards loss of earnings is also retained. The Tribunal had not granted any amount towards extra nourishment etc. On that score, appellant-claim

petitioner is granted an amount of Rs.5,000/-. In all, the appellant-claim petitioner is entitled to Rs.49,250/- which is rounded off to Rs.50,000/-.

8. In the result, the appeal is allowed in part enhancing the compensation granted by the Tribunal from Rs.34,000/- to Rs.50,000/- (Rupees Fifty Thousand only) with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit. The appellant is entitled to withdraw the entire amount on deposit. Other directions given by the Tribunal are retained.

Miscellaneous applications, if any, pending in this appeal shall stand closed.

March 10, 2017
MRR

Dr. SHAMEEM AKTHER, J