

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.2515 of 2005

JUDGMENT:

This Appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), is filed by the appellant-petitioner (claimant), aggrieved by the common order, dated 16.11.2004, passed in O.P. No.752 of 1999 by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Nellore ('the Tribunal', for brevity).

2. Heard the learned counsel for the appellant-claimant. There is no representation for the 1st respondent-owner of the crime vehicle and the 2nd respondent-insurance company.

3. Learned counsel for the appellant-claimant would submit that the appellant-claimant suffered simple and greivous injuries in the motor accident, which occurred on 17.01.1999 due to rash and negligent driving of the driver of the auto bearing registration No.AP 26 T 9231. Due to the said injuries, he suffered 30% disability. Before the accident, he was hale and healthy and working as a plastic vendor and earning Rs.100/- per day. The Tribunal granted only Rs.78,000/- against a claim of Rs.1,25,000/-, which is meager. The appellant was aged 30 years as on the date of accident and suffering injuries in the accident and ultimately prayed to enhance the compensation to Rs.1,25,000/-.

4. In view of the contentions of the learned counsel for the appellant-petitioner, the point for determination is whether the

appellant-petitioner is entitled for enhancement of compensation as prayed for?

5. POINT: To substantiate the claim, the appellant-petitioner deposed as P.W.2. He also examined one Dr.Penchalaiah as P.W.3 and got marked Exs.A-1 to A-4. The appellant pleaded 30% disability, but did not file any certificate of disability. Basing on the evidence of P.Ws.2 and 3, the Tribunal held that the appellant suffered 25% disability and by taking the monthly income of the appellant as Rs.1,000/- and his age as on the date of accident as 30 years, granted an amount of Rs.54,000/- towards compensation for loss of earning power and permanent disability suffered the appellant. The Tribunal also granted an amount of Rs.15,000/- towards pain and suffering, Rs.4,000/- towards medical expenses, Rs.5,000/- towards transportation expenses, extra nourishment, attendant charges and damages to clothing etc., to the appellant. In all, the Tribunal granted an amount of Rs.78,000/- towards compensation. Though the appellant had contended that he spent huge amount on medicines, he did not file a single receipt to substantiate the said contention. However, the Tribunal had granted an amount of Rs.4,000/- towards medical expenditure and Rs.5,000/- towards transportation expenses, extra nourishment, attendant charges and damages to clothing etc., to the appellant. The findings of the Tribunal are based on record and there is nothing to take a different view. As the accident in question took place way back in January 1999, the Tribunal had taken the earnings of the appellant at Rs.1,000/- per month and granted compensation for suffering 25% disability and the same is also

based on record and there is nothing to take a different view. The Tribunal has also granted Rs.15,000/- towards compensation for pain and suffering and the same is also based on evidence on record. Therefore, this Court finds no infirmity in the impugned order. There are no circumstances to enhance the compensation as contended by the learned counsel for the appellant-petitioner. The Appeal is devoid of merits and is liable to be dismissed.

6. In the result, the Appeal is dismissed confirming the order, dated 16.11.2004, passed in O.P. No.752 of 1999 by the by the Tribunal. There shall be no order as to costs.

Miscellaneous petition, if any, pending in this Appeal shall stand dismissed.

Dr. Shameem Akther, J

20th October, 2017
Bvv

