

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.2617 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 28.06.2005 passed in O.P. No.1249 of 2001 by the Chairperson, Motor Vehicle Accidents Claims Tribunal-cum-IX Additional District and Sessions Judge (Fast Track Court), Guntur (for short, 'the Tribunal').

2. Heard the learned counsel for the appellant-petitioner, learned standing counsel for the 2nd respondent-insurer and perused the record.

3. Learned counsel for the appellant-petitioner would submit that the Tribunal had granted a compensation of Rs.83,955/- against the original claim of Rs.2,00,000/- with interest at the rate of 9% p.a. from the date of petition till the date of realization. The Tribunal had taken the annual income of the appellant as Rs.15,000/- instead of Rs.30,000/-. The Tribunal had not considered the disability suffered by the appellant and the medical bills marked as Exs.A-7 and A-8 and has granted a compensation of Rs.48,000/- towards disability and loss of future earnings, Rs.15,955/- towards surgery, hospital treatment and medical expenses, Rs.15,000/- towards pain and suffering and Rs.5,000/- towards loss of amenities; in all granted a compensation of Rs.83,955/- which is meager and ultimately prayed to enhance the compensation.

4. On the other hand, learned standing counsel for the 2nd respondent-insurer would contend that the Tribunal had granted just and reasonable compensation on all scores and there are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the Appeal with costs.

5. There is no dispute with regard to the appellant suffering injuries due to the rash and negligent driving of the driver of Lorry bearing registration No.MP-9-KA-194 (for short, 'the crime vehicle'). The only dispute in the instant case is with regard to quantum of compensation.

6. In the circumstances put forth by both parties, the point that arises for determination is whether the appellant-petitioner is entitled for enhancement of compensation?

7. **POINT:** Admittedly, the Tribunal relying on the evidence of P.Ws.1 and 2 and the medical bills marked as Exs.A-7 and A-8 granted a compensation of Rs.15,955/- towards medical expenses. The Tribunal has assigned valid reasons for discarding some of the medical bills, therefore, no infirmity is found with regard to award of aforesaid compensation under the head of surgery, hospital treatment and medical expenses by the Tribunal.

8. The Tribunal has granted an amount of Rs.15,000/- towards pain and suffering and Rs.5,000/- towards loss of amenities in life. To grant the compensation on these two heads also the Tribunal has taken into consideration the wound certificate marked as Ex.A-6, the evidence of P.W.2 – doctor and the evidence of P.W.1 discussed the entire evidence on record and rightly granted the aforesaid compensation. Therefore, it does not require any interference by this Court. The only point is that whether the Tribunal has rightly granted the compensation of Rs.48,000/- towards disability and loss of future earnings?

9. As per the evidence of P.Ws.1 and 2, there was amputation to three toes of the appellant; the same is not in dispute. As per the evidence on record, appellant was aged 40 years as on the date of accident. The Tribunal took the functional disability of the appellant as

20%, his annual income as Rs.15,000/- and multiplied with 16, relevant multiplier applicable to the age group of the appellant, and arrived at a compensation of Rs.48,000/- towards disability and loss of future income. There is record to believe that the appellant, who deposed as P.W.1, was a vegetable vendor and selling vegetables on a pushcart definitely suffered loss of earnings and his bright future is affected due to the injuries received and amputation caused. Therefore, taking the annual earnings of the appellant as Rs.15,000/- is on lower side and the same is taken as Rs.25,000/- p.a. Accordingly, the amount of compensation to be awarded under the head of disability and loss of future earnings comes to Rs.80,000/- (Rs.25,000/- x 16 x 20/100), instead of Rs.48,000/- awarded by the Tribunal.

10. The following is the tabular form showing the amount of compensation awarded by the Tribunal and modified by this Court, if any, under each head:

Sl.No.	Name of Head	Awarded by Tribunal	Modified by this Court
01.	Disability and loss of income	Rs.48,000/-	Rs.80,000/-
02.	Medical Expenses	Rs.15,955/-	Rs.15,955/-
03.	Pain and suffering	Rs.15,000/-	Rs.15,000/-
04.	Loss of amenities	Rs.5,000/-	Rs.5,000/-
TOTAL		Rs.83,955/-	Rs.1,15,955/- (Rounded off to Rs.1,16,000/-)

11. In the result, the Appeal is allowed in part, enhancing the compensation awarded by the Tribunal from Rs.83,955/- to Rs.1,16,000/-; the enhanced amount of compensation *i.e.*, Rs.32,000/- would carry interest at the rate of 7.5% p.a. from the date of filing of petition till the date of deposit in Court. On deposit, the appellant-petitioner is permitted to withdraw the entire amount. The other conditions imposed by the Tribunal remain unchanged.

12. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

Dr. SHAMEEM AKTHER, J

Date: 09.10.2017.
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