

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.254 OF 2014

JUDGMENT:

Dissatisfied with the award of Rs.2,00,000/- as compensation by order dated 18.01.2011 in O.P.No.88 of 2008 on the file of the Chairman, Motor Accidents Claims Tribunal – cum - II Additional District Judge, Nizamabad (for short, the Tribunal'), for injuries sustained by the appellant - petitioner in a road accident, the present appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') seeking enhancement of compensation.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2, who are the owner and insurer of the auto bearing registration No. AP 20 V 5859, respectively, are respondent Nos.1 and 2, respectively, in the original petition.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. Heard Sri Akkam Eshwar, learned counsel for the appellant – petitioner, and Sri R.Venkat Rao, learned Standing Counsel for respondent No.2 –United India Insurance Company Limited.

5. The claim was laid under Section 166 of the Act for Rs.2,00,000/- for the injuries sustained by the petitioner. The

Tribunal, having framed relevant issues and examining PWs.1 and 2, amongst whom PW.2 is the Medical Officer, and marking Exs.A1 to A9 and Ex.C1 on behalf of the petitioner and examining RW.1 on behalf of respondent No.2 and marking Exs.B1 and B2, while discussing the injuries sustained by the petitioner, the amount spent by him towards medical expenses, disability at 15% and fixing the income at Rs.3,000/- per month, some how, observed in paragraph '18' of the order under challenge thus:

“In the view of above discussion and circumstances the compensation arrived at and to be awarded to the petitioner in total comes to more than Rs.2,00,000/-. However the petitioner claimed compensation of Rs.2,00,000/- only which is not exorbitant and reasonable. Therefore the petitioner is entitle for the compensation of Rs.2,00,000/- as prayed by him.”

6. In fact, when the Tribunal opined that on determination, the compensation would reach beyond the claim made, it ought to have determined the compensation and arrived at a definite figure and then ought to have restricted the claim, in case it so feels in accordance with the decisional law then in vogue. In that view of the matter, learned counsel for both sides would request to remit the matter. Even this Court is of the view that it is a case where the matter requires to be remitted to the Tribunal to determine the compensation taking into account the relevant factors under different heads, which are not finding place in the order under challenge, more particularly, in paragraph '17' of the order, and basing on the evidence already

available and, in case either party would opt to lead further evidence, to allow the party to lead further evidence.

7. The instant appeal is, accordingly, allowed setting aside the order under challenge and remanding the matter to the Tribunal for disposal of the O.P afresh as stated above. This exercise shall be completed not later than six months from the date of receipt of a copy of this order.

8. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.

09th October, 2017
v v

JUSTICE A.SHANKAR NARAYANA

