

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.2371 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 award dated 02.06.2005 passed in M.V.O.P. No.385 of 2002 by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Kadapa (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. There is no representation on behalf of the 1st respondent-owner of lorry bearing registration No.AP 04T 4345 (for short, 'the crime vehicle'). However, absence of owner of the crime vehicle is of no consequence to decide the quantum of compensation in view of a Division Bench decision of this Court in ***Meka Chakra Rao Vs. Yelubandi Babu Rao @ Reddemma and others***¹.

3. The parties hereinafter are referred to as arrayed before the Tribunal.

4. Learned counsel for the appellant-petitioner would submit that the Tribunal had granted a compensation of Rs.85,000/- against the claim of Rs.3,50,000/-; the Tribunal had not granted just and reasonable compensation on account of 30% disability suffered by the petitioner, though there is evidence of P.W.3, doctor to that effect. The petitioner is carpenter by profession and the Tribunal ought to have granted compensation as claimed.

¹ 2001 (1) ALT 495 (DB)

5. On the other hand, learned standing counsel for the 2nd respondent-insurer would contend that the Tribunal has taken all the factors into consideration and granted just and reasonable compensation of Rs.85,000/- taking all the heads into account. Learned standing counsel further contends that there is record to show after the accident the petitioner purchased property which is evident from Ex.A-4 and also paid L.I.C. installments under Exs.A-7 to A-9, subsequent to the accident. All these things go to show that there was no reduction in the earnings of the petitioner; therefore, there are no circumstances to enhance the compensation as prayed for.

6. In the contentions put forth by both sides, there is no dispute with regard to negligence on the part of the driver of crime vehicle in causing injuries to the petitioner. The only point requires to be determined is whether the appellant-petitioner is entitled for enhancement of compensation as prayed for?

7. **POINT:** There is evidence under Ex.A-2 certified copy of wound certificate and also the evidence of P.W.3 doctor. The petitioner, examined as P.W.1, deposed about the injuries suffered by him. As per the medical record available, it can be safely concluded that the petitioner suffered fractures to his right femur and 3 simple injuries. The finding to that effect is recorded by the Tribunal also. There is evidence of the doctor, P.W.3, that the petitioner suffered 30% disability, no certificate from the competent medical Board is filed in this case. Taking the facts and circumstances of the case and relying on the medical evidence, the Tribunal had granted Rs.10,000/- towards medicines, treatment *etc.*, relying on Exs.A.17 and A.21, granted Rs.15,000/- towards future treatment; thereafter a lump sum amount of Rs.60,000/- is granted for the injuries, pain and suffering and inconvenience caused to the petitioner; in

all granted a compensation of Rs.85,000/-. As seen from the impugned award, a lump sum amount of Rs.60,000/- is granted as indicated above. The Tribunal did not separately award compensation towards injuries, pain and suffering, loss of earnings and loss of other amenities in life and any amount for the disability suffered by the petitioners under the relevant heads.

8. In view of the facts and circumstances, grievous injuries suffered by the petitioner and as there is evidence to believe that he was a Carpenter, sustained fracture to right femur, which affected his capability to work, some amount is required to be awarded to the petitioner in addition to the compensation awarded by the Tribunal. Therefore an amount of Rs.15,000/- is added to Rs.85,000/- to meet the ends of justice. Therefore, the petitioner is entitled for a compensation of Rs.1,00,000/- in total. The point is accordingly answered.

9. In the result, the Appeal is allowed in part enhancing the compensation awarded by the Tribunal from Rs.85,000/- to Rs.1,00,000/-. However, the enhanced amount of Rs.15,000/- carries interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realization. The respondents 1 and 2 are directed to deposit the compensation amount within one month from today. On such deposit, the petitioner is permitted to withdraw the entire compensation. The other conditions imposed by the Tribunal remain unchanged.

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

Dr. SHAMEEM AKTHER, J

Date: 27.10.2017.
Dsh

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

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M.A.C.M.A. No. 2371 OF 2005

Date. 27.10.2017

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