

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.1392 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 common order dated 13.08.2004 passed in O.P. No.1271 of 2002 by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge at Warangal (for short, 'the Tribunal').

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

3. Learned counsel for the appellant-petitioner would submit that the Tribunal had granted a compensation of Rs.8,000/- towards pain and suffering, Rs.2,000/- towards loss of earnings, Rs.39,929/- towards medical expenses and extra nourishment and Rs.500/- towards transportation; in all granted a compensation of Rs.50,429/-, which is meager and ultimately prayed to enhance the compensation to Rs.1,50,000/-.

4. On the other hand, learned standing counsel for the respondents-insurer would contend that the Tribunal had granted just and reasonable compensation on all scores. There is no record to believe that the appellant was an agriculturist and hence the Tribunal had rightly granted Rs.2,000/- towards loss of earnings. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the Appeal.

5. Admittedly, there is no dispute with regard involvement of Auto rickshaw bearing registration No.AP-36-V-45036 (for short, 'the crime

vehicle') in the accident and subsistence of valid insurance of the crime vehicle under Ex.B-1 as on the date of accident. The oral and documentary evidence reveals that the appellant and other passengers traveling by the crime vehicle suffered severe injuries. Therefore, it can be safely concluded that the appellant suffered injuries due to the rash and negligent driving of the driver of crime vehicle.

6. In the circumstances put forth by both parties, the only point requires to be determined is whether the appellant-petitioner is entitled for enhancement of compensation?

7. **POINT:** While dealing with the subject matter, the Tribunal had granted a compensation of Rs.39,929/- towards medical expenses relying on the oral as well as documentary evidence. The Tribunal has taken the relevant medical bills into consideration, examined the same and rightly awarded Rs.39,929/- towards medical expenses, which requires no interference by this Court. The Tribunal has granted an amount of Rs.8,000/- towards pain and suffering and Rs.2,000/- towards loss of earnings. It is evident from the oral and documentary evidence that the appellant had suffered injuries as mentioned in Ex.A-146, which goes to show that the appellant suffered fracture of 4" x 2" on right fore-arm, fracture on right hand, CH-I to head, Contusion of 5 c.m. x 5 c.m. on right leg and contusion on back. Thus, the appellant had suffered two grievous injuries and the remaining four injuries suffered by the appellant are simple in nature. There is nothing to disbelieve the same. Therefore, the appellant is entitled for an amount of Rs.20,000/- towards the injuries, pain and suffering. The evidence of the appellant is that he is an agriculturist; therefore, no certificate is required to establish his earnings. Therefore, it can be safely concluded that the appellant was earning an amount of Rs.4,000/- p.m. did not work for four months and is entitled for an amount

of Rs.12,000/- towards loss of earnings. As far as the amount of compensation awarded by the Tribunal on other heads is concerned, it requires no consideration as the Tribunal has assigned valid reasons and came to just conclusion in awarding the said compensation.

8. 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.	Medical expenses and extra nourishment	Rs.39,929/-	Rs.39,929/-
02.	Transportation	Rs.500/-	Rs.500/-
03.	Injuries and pain and suffering	Rs.8,000/-	Rs.20,000/-
04.	Loss of earnings	Rs.2,000/-	Rs.12,000/-
TOTAL		Rs.50,429/-	Rs.72,429/- (Rounded off to Rs.72,500/-)

9. In the result, the Appeal is allowed in part, enhancing the compensation awarded by the Tribunal from Rs.50,429/- to Rs.72,500/-; the enhanced amount of compensation *i.e.*, Rs.22,000/- 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.

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

Dr. SHAMEEM AKTHER, J

Date: 09.10.2017.
Dsh

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

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M.A.C.M.A. No. 1392 OF 2005

Date. 09.10.2017

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