

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.2748 OF 2004

JUDGMENT:

Heard Sri Venkateswara Rao Gudapati, learned counsel for the appellant - claimant, and Sri Vutla Srinivasa Rao, learned standing counsel for respondent No.3 - insurer.

2. The present Civil Miscellaneous Appeal is preferred requesting for enhancement of compensation on the ground that the amount of Rs.2,40,459/- awarded by the Tribunal towards compensation is meagre and inadequate. The said order was passed on 31.08.1998 in O.P. No.584 of 1996 by the learned Chairman, Motor Accidents Claims Tribunal - cum - Additional District Judge, Vizianagaram (for short 'Tribunal'), as against the claim of Rs.4,00,000/- laid for the grievous injuries sustained by the petitioner, who is a business man.

3. The fact-situation is not in dispute. The Tribunal has taken annual turnover of the petitioner's business at Rs.10,72,335/- and profits thereon at 2%, and applied multiplier '13' and taking the disability at 45% as it is, arrived at Rs.1,25,459/- towards permanent disability. Besides the same, the Tribunal has also granted Rs.20,000/- towards pain and suffering, Rs.10,000/- towards transportation charges and extra-nourishment, Rs.85,000/- towards

medical expenses based on the medical bills marked as Ex.A-6, and, thus, awarded a total sum of Rs.2,40,459/- towards compensation with interest at 12% per annum.

4. The learned counsel for the claimant would submit that the Tribunal has taken the profits at 2% over the gross turnover which is very minimum and totally inadequate and there was no basis in arriving at such percentage and even multiplier factor ought to be '15', and the Tribunal has not awarded any amount towards attendant charges and loss of temporary earnings, and, thus, sought to grant the balance amount.

5. Perused the order and the decree passed by the Tribunal and the material on record.

6. So far as 2% taken towards profits on the gross turnover of the petitioner's business is concerned, in the absence of any documentary evidence, it is difficult to enhance it. However, multiplier factor '13' has to be changed to that of '15', as per the table formulated by the Hon'ble Supreme Court in **Sarla Verma v. Delhi Transport Corporation**¹ as the petitioner was aged 38 years as on the date of the accident. Thus, as against Rs.1,25,459/- towards compensation for permanent disability, the same is enhanced to Rs.1,44,765/- (Rs.10,72,335/- x 2% x multiplier 15 x 45%). The amount of Rs.20,000/- granted towards pain and suffering is

¹ (2009) 6 SCC 121

maintained. Rs.10,000/- granted towards transportation and extra-nourishment is enhanced to Rs.15,000/-. The medical expenses of Rs.85,052/- is maintained. No amount is granted towards attendant charges by the Tribunal. Keeping in view, the fractures suffered by the petitioner, at the rate of Rs.2,000/-, for a period of four (4) months, a sum of Rs.8,000/- is awarded towards attendant charges. Towards loss of temporary earnings, for a period of four months, a *lump sum* amount of Rs.10,000/- is awarded.

7. Thus, the petitioner is totally entitled to a sum of Rs.2,82,817/- (Rupees two lakhs eighty two thousand eight hundred and seventeen only) as against Rs.2,40,459/- granted by the Tribunal, and the same is accordingly granted. So far as rate of interest is concerned, which is awarded at 12% per annum by the Tribunal, the same is maintained, as there is no Cross-Objection or appeal preferred by the insurer challenging the same, on the amount granted by the Tribunal, and, on the enhanced amount, interest at 7.5% per annum is awarded.

8. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the order and the decree under challenge by enhancing the compensation, as indicated above. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

August 1, 2017.
PV

A. SHANKAR NARAYANA, J

