

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.413 OF 2014

JUDGMENT:

The appellant was a minor on the date of making the claim. Therefore, her father being next friend, filed the claim petition and after she had attained majority, filed applications in I.A. No.1914 of 2011 and 1915 of 2011 and she was declared major by order, dated 22.07.2011, by the Chairman, Motor Accidents Claims Tribunal - cum - II Additional Chief Judge, City Civil Court, Hyderabad (for short 'Tribunal').

2. Aggrieved over the award of Rs.75,000/- as compensation with interest at 6% per annum as against the claim of Rs.2,50,000/- for the injuries she sustained and the disfigurement, the appellant preferred the present appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'Act'). The aforesaid amount was awarded by order and decree, dated 23.03.2013 by the Tribunal in M.V.O.P. No.1221 of 2007.

3. The appellant herein is the petitioner in the aforesaid M.V.O.P., while respondent Nos.1 and 2, who are owner and insurer of Ashok Leyland Open Tractor bearing registration No.KA 08/3537, respectively, are arrayed as respondents as such.

4. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the aforesaid M.V.O.P.

5. Heard Sri Siva S. Lanka, learned counsel for the appellant - petitioner, and Sri Naresh Byrapaneni, learned standing counsel for respondent No.2 - Insurer. Though, notice was served on respondent No.1, owner of the vehicle, none appears for it.

6. The learned counsel for the petitioner would submit that the medical evidence would clearly show that the petitioner suffered with loose teeth, which were interlocked with wires and treated and there was disfigurement of the face. She was a young lady and marriage prospects are, therefore, weak, and these circumstances were not kept in view by the Tribunal and, thus, she seeks to grant the balance amount.

7. The learned standing counsel for respondent No.2 - Insurer would resist the request supporting the order passed by the Tribunal.

8. On perusal of the order passed by the Tribunal and the material on record, only question that arises for consideration is, whether the amount awarded by the Tribunal is just and adequate, and if not, to what amount, the petitioner is entitled towards just and adequate compensation?

9. A perusal of the order would show that the Tribunal granted Rs.30,000/- towards pain and suffering; Rs.20,000/- towards loss of amenities, nervous shock etc., and Rs.25,000/- towards medical expenditure, thus, a total sum of Rs.75,000/- was granted by evaluating the evidence of doctor examined as PW.3. The evidence of PW.3, in his cross-examination, would clearly show that the petitioner though, did not suffer any permanent disability, but scars on the face of the petitioner would remain permanently. It is true, the petitioner being an unmarried lady, who attained majority in the year 2011, because of the scares on her face; certainly, there would be some sort of difficulty in regard to marriage prospects. Even otherwise, the fracture to the loose teeth with arched bar and interlocking wire fixtures would all indicate, besides the learned counsel submitting that the petitioner suffered dislocation of studies for a period of three years, the amount awarded by the Tribunal appears to be on lower side. Therefore, the amount of Rs.30,000/- granted towards pain and suffering is enhanced to Rs.60,000/-. Towards medical expenses, the amount of Rs.25,000/- awarded by the Tribunal is maintained, but the amount of Rs.20,000/- granted towards loss of amenities, nervous shock etc., certainly, it has to be enhanced in view of the scar appearing on her face which remains permanently even according to the medical evidence and, therefore, the same is enhanced to Rs.50,000/-. The Tribunal has not granted any amount towards extra nourishment and, therefore, a sum of Rs.10,000/- is awarded. Even

towards transport charges, no amount was granted and a sum of Rs.3,000/- is accordingly awarded. Thus, the petitioner is entitled to Rs.1,48,000/- towards compensation as against the amount of Rs.75,000/- granted by the Tribunal.

10. Concerning the rate of interest, the Tribunal awarded the same at 6% per annum, but, the same is enhanced to 7.5% per annum in view of the decision of the Hon'ble Supreme Court in **Rajesh v. Rajbir Singh**¹.

11. In the result is, the appeal is allowed in part and the order and decree, dated 23.03.2013 passed by the Tribunal in M.V.O.P. No.1221 of 2007 are modified enhancing the compensation to Rs.1,48,000/- (Rupees one lakh and forty eight thousand) from Rs.75,000/- with interest at the rate of 7.5% per annum thereon from the date of petition till realization. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in these appeals, stand disposed of.

A. SHANKAR NARAYANA, J

October 25, 2017.

Mgr

¹. (2013) 9 SCC 54