

HON'BLE Dr.JUSTICE SHAMEEM AKTHER

MACMA No.884 of 2007

JUDGMENT:

Heard learned counsel for the appellant/claimant. Though notice is served on the respondent-insurance company, none entered appearance. The claim against respondent No.1 – owner of the vehicle has been dismissed for default vide order dated 08.07.2016. The dismissal of claim against owner of the vehicle is not a bar to adjudicate this appeal on merits in view of the decision in **Meka Chakra Rao v. Yelubandi Rama Rao**¹. Hence, this appeal is being disposed of on merits.

2. Learned counsel for the appellant would submit that appellant has suffered grievous injuries, i.e. fracture of femur shaft of right side, lacerated injury of 0.5 cm. x 5 cm. x 5 cm., on the forehead and the Tribunal has granted compensation of only Rs.45,500/-, which is meagre. Though there is ample evidence to prove the said injuries, medical expenses, loss of earnings, etc., the Tribunal erred in granting meagre compensation to the appellant as against his claim for compensation of Rs.2 lakhs and ultimately prayed to enhance the compensation as prayed for.

3. It is evident from the evidence of P.W.1, the appellant and P.W.2, Dr.G.B.Thakur, Ex.A.2, certified copy of charge sheet, Ex.A.3, attested copy of wound certificate, Ex.A.4, discharge summary and Ex.A.5, bunch of medical bills and Ex.A.6, X-ray films, that appellant has suffered grievous injuries, i.e., fracture of femur shaft of right side, lacerated injury of 0.5 cm. x 5 cm. x 5 cm., on the forehead. There is nothing to disbelieve the same.

¹ 2001 (1) ALD 453

In the circumstances, the Tribunal had rightly held that the appellant had suffered the aforesaid injuries and granted an amount of Rs.20,000/- for the injuries suffered by him and Rs.4,000/- for simple injuries. It has also granted Rs.3,500/- towards medical expenses as shown in Ex.A.5 and further Rs.10,000/- towards expenses incurred for treatment. The Tribunal also granted Rs.8,000/- towards loss of earnings. In all, the Tribunal has granted Rs.45,500/-. As per the evidence on record, the appellant was 37 years old. This Court is of the view that compensation granted towards injuries suffered by the appellant, i.e. Rs.24,000/- requires enhancement to Rs.45,000/-, in view of nature of injuries and their impact. The Tribunal has taken the oral and documentary evidence on record and granted adequate compensation on other scores. Therefore, no change is necessitated. The same is confirmed. It is evident from the evidence of P.W.1 and documentary evidence under Exs.A.1 to A.6 that appellant has suffered grievous injuries and simple injuries as indicated above due to the rash and negligent driving of the crime vehicle, i.e., bus bearing No.AP-24U-4044 on 22.10.2003. There is nothing to rebut the same. Therefore, the said finding is confirmed. As can be seen, Ex.B.1 is the copy of insurance policy of the crime vehicle and it was validly insured with respondent No.2/insurer. There was no violation of terms and conditions of the policy. Therefore, the finding of the Tribunal tagging the liability against respondents 1 and 2 jointly and severally is confirmed.

4. In the result, the appeal is allowed in part, enhancing the compensation awarded by the Tribunal from Rs.45,500/- to Rs.67,000/- (Rupees Sixty Seven Thousand only) with interest at 7.5% per annum from

the date of the claim petition till the date of deposit and costs. The appellant is entitled to withdraw the entire compensation. Other directions of the Tribunal are retained.

Miscellaneous applications, if any, pending in this appeal shall stand closed.

June 16, 2017
MRR

Dr.SHAMEEM AKTHER, J

