

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.2687 of 2004

JUDGMENT:

Dissatisfied with the award of Rs.99,117/- as compensation by order dated 18.01.2001 in O.P.No.506 of 1998 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Nalgonda (for short, the Tribunal'), as against the claim of Rs.2,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), for amputation of right leg and yet other simple and grievous injuries sustained by the appellant - petitioner in a road accident, the present appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2, who are the owner and insurer of the Jeep bearing registration No. AP 9J 8172, respectively, are respondent Nos.1 and 2, respectively, in the original petition.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. Heard Sri K.Srinivas, learned counsel for the appellant. No representation for respondent No.2 – insurer. The present appeal

was dismissed for default against respondent No.1 – owner of the vehicle, vide order dated 07.11.2003, and as he remained *ex parte* before the Tribunal and suffered decree, his presence is immaterial in deciding the request herein.

5. The Tribunal has taken up two claim petitions i.e., O.P.No. 506 of 1998 and O.P.No.464 of 1998, which relate to the injuries sustained by one Ambati Renu Babu in the very same road accident, and disposed of the same by common order dated 18.01.2001. The petitioner in O.P.No.464 of 1998 sought compensation of Rs.1,00,000/- for the injuries sustained by him, whereas the petitioner in O.P.No.506 of 1998 sought compensation of Rs.2,50,000/- for amputation of his right leg and other simple and grievous injuries sustained by him. The present appeal is directed against the award and decree passed in O.P.No.506 of 1998. The Tribunal recorded the evidence of the petitioners in both the O.Ps as P.Ws.1 and 2 and marked Exs.A1 to A14. On behalf of the respondent No.2 - insurance company, Ex.B1 – insurance policy was marked.

6. There is no dispute in regard to the injuries sustained by the petitioner in the present O.P., and the fact-situation projected by the Tribunal, for the reason that no appeal appears to have been preferred by the insurer.

7. A perusal of the findings recorded by the Tribunal would show that the Tribunal accepted Ex.A13 – disability certificate issued by Dr. N. Muralidhar Rao, who recorded 60% disability for the amputation as well as injury to the right arm sustained by the petitioner. While applying structural formula, the Tribunal has discarded the stand taken by the petitioner that he was earning Rs.3,000/- per month by doing fish business, and treating him as a casual labour, fixed Rs.30/- as his daily wage, taken his age as 23 years as per the records and deducted 1/3rd towards personal expenses and arrived at Rs.600/- per month or Rs.7,200/- per annum towards contribution to the family and, without referring to the multiplier factor and stating that if it is multiplied by suitable multiplier, it would come to Rs.1,32,696/- and taking 60% thereof towards future loss of earnings, worked out Rs.79,617/- and, accordingly, granted the same. Besides the said amount, the Tribunal has also granted Rs.5,000/- towards medical expenses, as against Rs.7,000/- claimed based on Ex.A7 – medical bills, Rs.1,000/- each for two simple injuries, Rs.2,500/- towards grievous injuries, Rs.5,000/- towards extra nourishment and hospital transportation, as the petitioner stayed in Hospital for 23 days and undergone treatment as inpatient, and Rs.5,000/- towards pain and suffering. That is how the Tribunal has arrived at Rs.99,117/-.

8. Now the question is whether Rs.30/- taken by the Tribunal as daily wage of the petitioner is just and adequate, if he is considered to be a casual labour?

9. The accident had occurred on 23.06.1998 at 4.30 p.m. So, even in the year 1998, the casual labour's daily wage can be put at Rs.50/-, which works out to Rs.1,500/- per month or Rs.18,000/- per annum. The age of the petitioner being 23 years, the relevant multiplier would be '18', Therefore, when the earnings at Rs.1,500/- per month or Rs.18,000/- per annum are multiplied with the multiplier factor '18' and 60% of annual income is computed towards loss of future earning capacity, as was done by the Tribunal, it works out to Rs.1,94,400/-. As the petitioner sustained grievous injury to his right arm, certainly, the amount of Rs.2,500/- granted by the Tribunal towards grievous injury requires enhancement and, accordingly, it is enhanced to Rs.15,000/-. Towards medical expenses, the amount of Rs.5,000/- granted by the Tribunal, as against Rs.7,000/- evidenced by Ex.A7 – medical bills, is enhanced to Rs.7,000/-. Towards extra nourishment as well as transportation, the amount of Rs.5,000/- granted by the Tribunal is enhanced to Rs.10,000/-. The amount of Rs.1,000/- per simple injury is enhanced to Rs.3,000/- and thus, for both simple injuries, Rs.6,000/- is awarded. Further, the amount of Rs.5,000/- granted by the Tribunal towards pain and suffering is

enhanced to Rs.15,000/-, which includes the amount towards pecuniary and non-pecuniary heads.

10. Thus, the petitioner is entitled to a total sum of Rs.2,47,400/- (Rupees two lakhs forty seven thousand and four hundred only), as against Rs.99,117/- granted by the Tribunal, towards compensation and the same is, accordingly, granted.

11. So far as the rate of interest is concerned, the Tribunal granted the same at 12% per annum and the same is maintained on the amount of Rs.99,117/- granted by the Tribunal, but on the enhanced amount, interest at 7.5% per annum is granted from the date of petition till realisation in view of the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**¹.

12. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

13. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.

JUSTICE A.SHANKAR NARAYANA

07th September, 2017
v v

¹ 2013 ACJ 1403