

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

MACMA No.2508 of 2005

JUDGMENT:

There is no representation for respondent No.2/insurer.

Heard learned counsel for appellant and perused the record.

Learned counsel for the appellant would submit that the appellant has suffered grievous and simple injuries in a road accident and claimed a compensation of Rs.2,10,000/-. The Tribunal had granted an amount of Rs.1,12,000/- towards compensation with 9% interest per annum. Though the evidence of P.Ws.1 and 2 reveals that the appellant suffered 40% disability, the Tribunal had taken 35% disability and applied multiplier '16' instead of '17' as mentioned in **Sarla Verma & Others v. Delhi Transport Corporation and another**¹. Learned counsel would also submit that the Tribunal had taken Rs.15,000/- as notional income of the appellant instead of Rs.30,000/-. No amount was paid towards medical expenses. The amount granted towards nourishment etc., is meagre and ultimately, prayed to enhance the compensation.

There is material evidence placed on record to believe that the appellant suffered grievous injuries in an accident that occurred on 24.04.2001 due to rash and negligent driving of

¹ (2009) 6 Supreme Court Cases 121

driver of Van bearing No.AP16 X 1863. The appellant had claimed compensation of Rs.2,10,000/- and the Tribunal had granted an amount of Rs.1,12,000/- towards compensation with 9% interest per annum.

The only point which is required to be determined here is, whether the appellant is entitled for enhancement of compensation.

To substantiate his case, the appellant examined himself as P.W.1 and Dr. Narayana Rao as P.W.2 and got marked Exs.A.1 – certified copy of FIR, Ex.A.2 – certified copy of charge sheet, Ex.A.3 – wound certificate issued by GGH, Guntur, and Ex.A.4 – Medical Certificate, and Ex.X.1 – Case Sheet maintained by GGH, Guntur.

As per Ex.A.3, on 24.04.2001, in the accident, the appellant suffered following injuries.

1. Crush injury of right wrist hand lower part of right fore arm exposing bones, muscles and Tendons.
2. An abrasion 10 cm X 4 cm red in colour on the back of left wrist and Dorsum of left hand.
3. An abrasion 4 cm X 1 cm red in colour on the right side of forehead.

There is nothing to disbelieve the same. Therefore, the Tribunal by taking disability at 35% and annual income of the appellant at Rs.15,000/- and applying multiplier '16' granted an amount of

Rs.84,000/- towards compensation for disability and loss of future income, Rs.5,000/- towards medical expenses, Rs.15,000/- towards pain and suffering and Rs.5,000/- towards loss of amenities, in all, Rs.1,12,000/- with 9% interest per annum.

As per the evidence of P.Ws.1 and 2, the percentage of disability suffered by the appellant is 40%. The appellant had not filed any document to substantiate the same. However, the Tribunal had believed that the appellant suffered 35% disability and thereby, granted Rs.84,000/- towards compensation for disability and loss of future income. The contention of the appellant is that the Tribunal ought to have taken his annual income at Rs.30,000/- and applied multiplier '17'. As the accident relates to the year 2001, taking the annual income of the appellant at Rs.15,000/- by the Tribunal cannot be faulted. Further, when there is no disability certificate by a competent authority, it is not appropriate to take the multiplier '17'. There is no record to show that the appellant had spent more than Rs.5,000/- towards medical expenses. Therefore, there is justification in awarding Rs.5,000/- towards medical expenses. In view of the injuries sustained by the appellant, granting Rs.15,000/- towards pain and suffering and Rs.5,000/- towards loss of amenities, by the Tribunal is justified. The findings of the Tribunal are based on record. There are no circumstances

warranting interference by this Court in the impugned order and to enhance the compensation on the grounds urged before this Court.

The appeal is devoid of merit and is accordingly dismissed.

Pending miscellaneous applications, if any, shall stand dismissed in consequence. No order as to costs.

Dr. SHAMEEM AKTHER, J

9th OCTOBER, 2017.

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