

**THE HON'BLE DR JUSTICE SHAMEEM AKTHER**

MACMA.NO.1004 OF 2007

**JUDGMENT:**

Heard the learned counsel for the appellant and perused the record.

The claim against the first respondent is dismissed.

Though notice was serviced on the second respondent-Insurance company, none entered appearance till date.

The contention of the appellant is that the appellant suffered grievous injuries on account of the accident, suffered disability and claimed a compensation of Rs.3,00,000/-. The Tribunal has granted compensation of an amount of Rs.57,162/- only in all scores, which is meagre and unjust and ultimately, prayed to enhance the compensation, as claimed.

The Tribunal has analyzed the evidence of P.Ws.1 and 2 and also relied on Exs.A1 to A17 and felt that the appellant suffered fracture of his left humerus due to rash and negligent driving of the lorry bearing No.KA-06-A-1752, which is owned by the first respondent and insured with the second respondent and there was valid license on the date of the accident and directed respondents 1 and 2 to pay the compensation of Rs.57,162/- with proportionate costs and interest @ 7.5% interest per annum, jointly and severally.

Learned counsel for the appellant-petitioner would submit that no amount was granted under the head 'pain and suffering' and further, though there is a disability certificate-Ex.A5 to show that the appellant has suffered 50% disability, the Tribunal has not granted any amount under these heads.

It is evident from the record that the appellant-petitioner has suffered fracture of his left humerus. P.W.2 supported the case of the appellant. No examination was conducted by the Medical Board and no disability certificate has been obtained from them. On examination of the injuries suffered by the appellant, it is not proper to hold that the appellant suffered 50% disability and the certificate marked under Ex.A5 cannot be acted upon and as such, no disability can be held in the circumstances of the case. The Tribunal has assigned valid reasons and discarded the claim on this score. The Tribunal has granted Rs.15,000/- towards fracture injury which is quite reasonable and just. Therefore, there is nothing on record to grant any compensation on the score of pain and suffering. As far as the order of the Tribunal is concerned, there is no infirmity and no mitigating circumstances to enhance the compensation and hence, the order of the Tribunal is confirmed.

In the result, the appeal is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

---

**(DR. SHAMEEM AKTHER, J)**

26<sup>th</sup> July 2017  
RRB