

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. No.244 OF 2014

JUDGMENT:

The only dispute in the present appeal is whether or not to enhance the compensation awarded by the Tribunal?

2. Feeling dissatisfied with the award of Rs.50,000/- towards compensation for the injuries sustained by the petitioner, as against the claim of Rs.1,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 read with Rule 455 of the A.P. Motor Vehicle Rules, 1989, by the learned Chairman, Motor Accidents Claims Tribunal - cum - IV Additional District Judge, East Godavari District, Kakinada, by the order, dated 29.11.2013 in M.V.O.P. No.44 of 2010, claimant preferred the present appeal under Section 173 of the Motor Vehicles Act, 1988, seeking to grant balance amount.

3. Heard Sri A.K. Kishore Reddy, learned counsel for the appellant - claimant, and Sri Kota Subba Rao, learned counsel for respondent No.2 - Chalamandalam M.S. General Insurance Company Limited.

4. Even in the cause title of the grounds of appeal itself, the claimant has mentioned that respondent Nos.1, 3, 4 and 5 are not necessary parties.

5. There is no dispute in regard to fact-situation occurring in the present claim petition.

6. Perused the order and the decree under challenge and the material on record.

7. The Tribunal has awarded Rs.10,000/- towards loss and expenses as against Rs.15,000/- claimed. Towards loss of earnings, a sum of Rs.2,000/- was granted, for two weeks hospitalization by the claimant. A sum of Rs.10,000/- claimed towards partial loss of earnings was negatived. Towards transportation charges to hospital, a sum of Rs.1,000/- was granted as sought for. Towards extra-nourishment, a sum of Rs.10,000/- was granted as against Rs.15,000/-. Towards medical expenses and attendant charges, a sum of Rs.10,000/- was granted. Another sum of Rs.15,000/- was granted for mental agony and pain and suffering. The claim for award of Rs.20,000/- towards partial permanent disability was negatived, in view of the answers given by PW.2, medical officer, in the cross-examination.

8. The learned counsel for the claimant would submit that the amounts awarded by the Tribunal are not just and adequate and neither in accordance with the principles envisaged under the provisions of the Motor Vehicles Act nor the legal principles laid down in the decisional law.

9. Turning to the injuries, the description of the injuries, as per the evidence of medical officer PW.2, are (1) incised wound of 6 x 2 centimeters over the right upper abdomen near rib margin, (2) an

incised wound of 18 x ½ centimeter skin deep in the right lower abdomen, (3) multiple abrasions of 3 x 1 centimeter on the lower part of the right upper arm, three abrasions over the right upper arm and forearm; and, it is clear from her evidence that the petitioner has undergone surgical intervention on 30.09.2009 and a liter of blood that was found in the abdominal cavity was pumped out and sutures were made to the liver as laceration on liver was present. Of course, the answers given by PW.2 in her cross-examination are unnecessary to refer to herein.

10. Now, turning to the amounts awarded in the light of the injuries sustained by the petitioner and the suffering he had undergone, the amount of Rs.10,000/- granted towards loss and expenses is maintained. The amount of Rs.2,000/- granted towards loss of temporary earnings is on lower side since not only just the period of hospitalization can be construed, but also post-operative period till he, at least, attained normalcy. Therefore, at the rate of Rs.3,000/- per month for a period of three (3) months, a sum of Rs.9,000/- is awarded. The amount of Rs.1,000/- granted towards transport charges is also maintained. Likewise, the amount of Rs.10,000/- awarded towards extra-nourishment is also maintained. The amount of Rs.10,000/- awarded towards medical expenses is also maintained. The amount of Rs.15,000/- granted towards pain and suffering, for one grievous injury and three (3) simple injuries, is

enhanced to Rs.34,000/- for the grievous injury including pain and suffering and Rs.3,000/- each to the simple injuries.

8. Thus, the petitioner is entitled to a total compensation of Rs.74,000/- (Rupees seventy four thousand only) and the same is accordingly granted as against Rs.50,000/- awarded by the Tribunal. However, the rate of interest granted by the Tribunal at 7.5% per annum from the date of petition till realization, is maintained on the enhanced compensation also since the same is in tune with the decision of the Hon'ble Apex Court in **Rajesh v. Rajbir Singh and others**¹.

9. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the order and the decree under challenge by enhancing the compensation, as indicated above. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

A. SHANKAR NARAYANA, J

October 11, 2017.
PV

¹ 2013ACJ1403 = 2013(4)ALT35