

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

**M.A.C.M.A. No. 862 OF 2007**

**JUDGMENT:**

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant, who is the petitioner in O.P. No.1672 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge (Fast Track Court), Nizamabad (for short, 'the Tribunal'), having got dissatisfied with the award of compensation of Rs.28,750/- with interest at the rate of 7.5% per annum from the date of petition till realisation granted by the Tribunal, vide the order dated 10.10.2006, as against the claim of Rs.2,00,000/- laid under Section 166(1)(a) of the Act for the injuries sustained by him in a motor accident occurred on 04.08.2001.

2. Heard both the learned counsel for the appellant-petitioner and the learned Standing Counsel for respondent No.2-insurer, apart from perusing the material available on record. The appeal against respondent No.1-owner of the crime vehicle is dismissed on 08.07.2016 for default. However, dismissal of the appeal for default against respondent No.1-owner of the vehicle is of no consequence to decide the quantum of compensation, in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**<sup>1</sup>.

3. Learned counsel for the appellant-petitioner would submit that the appellant-petitioner was not granted just and reasonable compensation; he was granted only Rs.28,750/- against the claim of Rs.2,00,000/-, which is very meagre; and ultimately, prayed to enhance the compensation as claimed by the appellant.

4. On the other hand, learned Standing Counsel appearing on behalf of respondent No.2-insurer would submit that the Tribunal had taken all the aspects into consideration and granted compensation on all heads; there is

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<sup>1</sup> 2001(1) ALT 495 (D.B.)

nothing to substitute another opinion; and ultimately, prayed to confirm the order under appeal.

5. Perused the order and the evidence on record. The manner in which the accident had taken place, causing injuries to the appellant-petitioner, is not in dispute. The record shows that there is no violation of terms and conditions of the insurance policy of the accident vehicle marked as Ex.B.1, which was in force by the date of the accident. Dealing with this issue, the Tribunal had elaborately assigned reasons and no other opinion can be substituted, also held that both respondents are jointly and severally liable to pay the compensation.

6. Coming to the quantum of compensation, while relying on the evidence of P.W.1-injured and P.W.2-doctor and the documents Ex.A.1-true copy of F.I.R., Ex.A.2-true copy of police requisition, Ex.A.3-certified copy of wound certificate, Ex.A.4-certified copy of charge sheet, Ex.A.5-discharge card issued by Pragathi Hospital, Ex.A.6-registration card issued by Pragathi Hospital, Exs.A.7 to A.17-medical prescriptions issued by private doctor, Ex.A.18-final bill, Exs.A.19 to A.23-report issued by private laboratories, Exs.A.24 and A.25-receipts of scanning centre, Exs.A.26 to A.64-cash memos for purchase of medicines, Exs.A.65 to A.72-X-ray films, Ex.A.73-colour photograph of the appellant-petitioner, Ex.A.74-xerox copy of insurance policy, Exs.A.75 to A.88-bills and Ex.A.89-disability certificate, the Tribunal held that the appellant-petitioner sustained the following injuries in the accident:

- (1) Fracture of clavicle of left side;
- (2) Fracture of styloid process of left radius;
- (3) Laceration at frontal area;
- (4) Laceration on the root of nose;
- (5) Left black eye;
- (6) Abrasion over the right knee;

7. Basing on the evidence on record, the Tribunal held that injury Nos.1 and 2 are grievous in nature and the other injuries are simple in nature and granted Rs.21,500/- towards medical expenses, extra nourishment and attendant charges, Rs.2,250/- towards loss of earnings @ Rs.45/- per day for 50 days and Rs.5,000/- towards pain and suffering. The Tribunal had not granted any compensation for the aforesaid injuries. As seen from the record, the appellant-petitioner suffered two grievous injuries and four simple injuries. On this score, the appellant-petitioner is entitled for a sum of Rs.20,000/- as compensation towards injuries. It is awarded accordingly. As far as the compensation awarded on other scores, the Tribunal had assigned valid reasons and awarded just and reasonable compensation. There is nothing to enhance the same and it is liable to be confirmed. Therefore, in all, the appellant-petitioner is entitled to a sum of Rs.48,750/- as against the amount of Rs.28,750/- granted by the Tribunal.

8. In the result, this appeal is allowed in part, modifying the order dated 10.10.2006 passed by the Tribunal in O.P. No.1672 of 2001 and the amount of Rs.28,750/- granted by the Tribunal is enhanced to Rs.48,750/- with interest at 7.5% per annum from the date of petition till realisation. The appellant is entitled to withdraw the entire amount of compensation. The other terms of the order under challenge remained unchanged. There shall be no order as to costs.

9. Miscellaneous Petitions pending, if any, shall stand closed.

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**Dr. SHAMEEM AKTHER, J**

Date: 21.07.2017

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