

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.3349 OF 2005

JUDGMENT:

1. This Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is filed by the appellant-petitioner, aggrieved by the award dated 18.03.2005 passed in O.P. No.245 of 2003 by the Chairman, Motor Accidents Claims Tribunal-cum-XIV Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad (for short, 'the Tribunal').

2. Heard the learned counsel for the appellant-petitioner, learned standing counsel for the 2nd respondent-insurer and perused the record. The Appeal against the 1st respondent-owner of D.C.M. Mitsubishi Canter bearing registration No.AHT 5460 (for short, 'the crime vehicle') was dismissed for default *vide* order of this Court on 06.01.2012. However, absence of owner of the crime vehicle is of no consequence to decide the quantum of compensation in view of a Division Bench decision of this Court in ***Meka Chakra Rao Vs. Yelubandi Babu Rao @ Reddemma and others***¹.

3. For convenience of reference, the parties hereinafter are referred to as arrayed before the Tribunal.

4. Learned counsel for the appellant-petitioner would submit that the petitioner suffered grievous and simple injuries in the motor accident occurred on 18.08.2002; on account of which, the petitioner suffered permanent disability and unable to discharge his duties and when claimed a compensation of Rs.4,00,000/- the Tribunal had granted a compensation of Rs.1,14,000/- which is quite low and un-reasonable and further submitted that no amount was awarded towards medical expenses and

¹ 2001 (1) ALT 495 (DB)

submitted that there are decisions of the Apex Court, where the Apex Court awarded the medical expenses which are really incurred and reimbursed by the concerned Governments and ultimately prayed to allow the Appeal and enhance the compensation as prayed for.

5. On the other hand, learned standing counsel for the 2nd respondent-insurer would contend that the petitioner suffered only injuries to the shoulder and injury to D.12 vertebra, which was conservatively treated by the doctor and the Tribunal has taken all the factors into consideration while awarding just and reasonable compensation of Rs.1,14,000/- and there are no circumstances to interfere with the impugned award and ultimately prayed to dismiss the Appeal.

6. In the circumstances put forth by both parties, the short point requires to be determined is whether the appellant-petitioner is entitled for enhancement of compensation?

7. **POINT**: Admittedly, as per the evidence of P.W.1, the petitioner is a central Government employee; the medical expenses incurred by her were reimbursed to her by the Government concerned. Even though the learned counsel for the petitioner submits that there are decisions of the Apex Court to show that the medical expenses incurred by a Government employee and got reimbursed later are required to be awarded to the petitioner but failed to bring to the notice of this Court, the relevant decisions and hence the medical expenses incurred and got reimbursed to the petitioner by the Government, cannot again be directed to be paid to her by the respondents herein.

8. As per the evidence of P.W.1, petitioner, and P.W.3, doctor, there is record to believe that the petitioner suffered fracture of surgical neck right humerus and it was fixed by a k-wire; there was also fracture of D.12

vertebra; Neurosurgeon attended the said fracture; the petitioner was advised to take bed rest for treatment of the vertebra. There is also record to believe that she was hospitalized from 19.08.2002 to 31.08.2002; thereafter, again admitted on 30.09.2002 for removal of k-wire and discharged on 03.10.2002. For taking physiotherapy, she again admitted in the hospital on 18.10.2002 and got discharged on 24.10.2002. As per the evidence on record, the movement of her right shoulder is restricted; she has some pain in the lumbar spine but there is no neurological defect. So, having considered the nature of injuries and the pain undergone by the petitioner, the Tribunal had granted an amount of Rs.50,000/- towards loss of earnings from 18.09.2002 to 30.09.2002, Rs.4,500/- towards transportation charges, Rs.7,000/- towards extra nourishment and room charges, Rs.2,500/- towards damages to clothing and other articles and Rs.50,000/- towards loss of pleasure and amenities in life; in all granted a compensation of Rs.1,14,000/-.

9. Learned counsel for the petitioner submits that the petitioner spent Rs.1,25,000/- towards extra nourishment, medicines and hospital expenses but the same were not supported by convincing and cogent evidence; there are no receipts in support of said contention. Therefore, the Tribunal has rightly granted an amount of Rs.7,000/- towards extra nourishment and room charges.

10. As seen from the evidence on record, the petitioner suffered fracture to D.12 vertebra and also fracture to right humerus. As per the evidence on record, for the accidental injuries, the petitioner was advised to take bed rest; the Tribunal assessing the loss caused to the petitioner for going on leave, awarded Rs.50,000/- towards loss of earnings assessing her monthly salary at the rate of Rs.5,000/- p.m. It is evident from the record for the injuries and consequences arose there from the

Tribunal had granted an amount of Rs.1,14,000/- in total, on various heads; the rate of interest at the rate of 9% p.a. from the date of petition till the date of realization was awarded, taking all the factors and circumstances into consideration, relying on the evidence and documents; the findings of the Tribunal are based on evidence and record and no infirmity is found in the impugned award. Therefore, all the submissions raised on behalf of the appellant-petitioner do fail. The Appeal is devoid of merits and is liable to be dismissed.

11. In the result, the Appeal is dismissed confirming the award dated 18.03.2005, passed in O.P. No.245 of 2003 by the Tribunal.

12. As a sequel, pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

Date: 25.10.2017.
Dsh

Dr. SHAMEEM AKTHER, J



HON'BLE Dr. JUSTICE SHAMEEM AKTHER

147



01112017

M.A.C.M.A. No. 3349 OF 2005

Date. 25.10.2017

DSH