

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.2477 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 order dated 04.10.2004 passed in O.P. No.1562 of 2002 by the Chairman, Motor Accident Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Nizamabad (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 Lorry bearing No.KA-01-AA-1648 (for short, 'the crime vehicle'), was dismissed for default *vide* order of the Court on 05.01.2012.

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 Tribunal had granted a compensation of Rs.2,000/- for two simple injuries, Rs.5,000/- for one grievous injury, Rs.10,000/- for pain, suffering and extra nourishment and Rs.3,500/- towards medical expenses, in all granted a compensation of Rs.20,500/- against the original claim of Rs.1,00,000/- which is quite low and meager. There is evidence on record to show that the petitioner was prevented to work for a considerable period and ultimately prayed to enhance the compensation.

5. On the other hand, learned standing counsel for the 2nd respondent-insurer would contend that the Tribunal had granted just and reasonable compensation on all scores and there are no circumstances to

interfere with the impugned order and ultimately prayed to dismiss the Appeal.

6. In the circumstances put forth by both parties, the point that arises for determination is whether the appellant-petitioner is entitled for enhancement of compensation?

7. **POINT:** As per the evidence on record the petitioner was an agriculturist and earning Rs.10,000/- p.m. No record relating to the petitioner possessing agricultural land and doing cultivation is filed before the Tribunal. So, it is hard to believe that the petitioner was earning Rs.10,000/- p.m. by doing agriculture. However, it can be held that she was earning an amount of Rs.3,000/- p.m. As seen from the entire evidence and the impugned order, the Tribunal granted Rs.2,000/- for two simple injuries, Rs.5,000/- for one grievous injury, Rs.10,000/- for pain, suffering and extra nourishment and Rs.3,500/- for medical expenses. The Tribunal did not grant any compensation to the petitioner towards loss of earnings as there was a fracture to the lower end of ulna, which is evident from the record, it can safely be concluded that the petitioner could not work for three months and she is entitled for an amount of Rs.9,000/- towards loss of earnings at the rate of Rs.3,000/- p.m.

8. The following is the tabular form showing the amount of compensation awarded by the Tribunal and modified by this Court, if any, under each head:

Sl.No.	Name of Head	Awarded by Tribunal	Modified by this Court
01.	Simple injuries	Rs.2,000/-	Rs.2,000/-
02.	Grievous injury	Rs.5,000/-	Rs.5,000/-
03.	Pain, suffering & Extra nourishment	Rs.10,000/-	Rs.10,000/-
04.	Medical expenses	3,500/-	Rs.3,500/-
05.	Loss of earnings	---	Rs.9,000/-
	TOTAL	Rs.20,500/-	Rs.29,500/-

9. In the result, the Appeal is allowed in part, enhancing the compensation awarded by the Tribunal from Rs.20,500/- to Rs.29,500/-. In view of the principle laid down by the Apex Court in ***Rajesh and others Vs. Rajbir Singh and others***¹, the petitioner is entitled to 7.5% interest on the enhanced amount of Rs.9,000/- from the date of filing of petition till the date of deposit. Accordingly, the respondents are directed to deposit the compensation amount within one month from today. On such deposit, the appellant-petitioner is permitted to withdraw the entire amount. The other conditions imposed by the Tribunal remain unchanged.

10. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

Dr. SHAMEEM AKTHER, J

Date: 12.10.2017.
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¹ 2013 ACJ 1403

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