

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[Special Original Jurisdiction]

THURSDAY THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND SEVENTEEN

PRESENT
HONOURABLE DR. JUSTICE SHAMEEM AKTHER

MACMA.No. 3004 OF 2005

Between:

Ireddy Vidyasagar Reddy ... Appellant/claimant

V/s.

Poladi Radhakishan Rao & Anr. ... Respondents-Respondents

Counsel for the appellant : Sri V. Subramanyam

Counsel for the Respondents: : R-1 dismissed for default
Vide Court order dt.5/1/2012
None appeared for R-2

The court made the following: [Judgment follows]

HONOURABLE DR. JUSTICE SHAMEEM AKTHER**MACMA.No. 3004 OF 2005****J U D G M E N T :**

This Civil Miscellaneous Appeal is filed by the appellant/claimant against the award and decree dated 17/8/2005 passed in MVOP.No. 916 of 2003 by the Motor Accident Claims Tribunal [I-Additional District Judge], Warangal seeking enhancement of compensation.

2. Heard Sri V. Subramanyam, learned counsel appearing on behalf of the appellant/claimant. No representation on behalf of respondent No.2 The New India Assurance Company Limited, Warangal [insurer]. The appeal against Respondent No.1 is dismissed for default vide court order dated 05/1/2012.

3. The contention put forth on behalf of the appellant/claimant is that though the appellant/claimant suffered two grievous injuries and other simple injuries, for that the Tribunal granted only a sum of Rs.30,000/-, Rs.10,000/- towards future operation, for the removal of nails, Rs.3,000/- towards loss of earnings and Rs.5,000/- towards physio-therapy, which is meagre. The appellant/claimant is a practicing lawyer and due to the injuries inflicted in the accident he could not practice for six months. The Tribunal has not granted

proper medical expenses. The compensation awarded on other scores is meagre and ultimately prayed to enhance the compensation to Rs.2,00,000/- as claimed.

4. In the circumstances, the only point that arises for determination is whether the appellant/claimant is entitled for enhancement of compensation as prayed for ?

5. To substantiate his claim, the appellant/claimant himself deposed as PW-1 and examined PW-2 P. Vijaychandra Reddy and marked Ex.A-1 attested copy of First Information Report, Ex.A-2 attested copy of charge-sheet, Ex.A-3 attested copy of injury certificate, Ex.A-4 attested copy of driving licence, Ex.A-5 attested copy of Insurance policy, Ex.A-6 discharge card, Ex.A-7 medical prescriptions and Ex.A-8 medical bills.

6. The Tribunal relying on the oral and documentary evidence held that the appellant/claimant suffered fracture of both condyles of tibia of right knee and he was operated and a nail was inserted and the appellant/claimant took treatment, including physio-therapy for the injuries. While determining loss of earnings, the Tribunal relied on Ex.A-15 income-tax returns of the appellant where most part of the income was taken as rental income. Ultimately the total annual income was taken Rs.33,630/- and granted Rs.3,0000/- towards loss of earnings. There is nothing to disbelieve the findings recorded by the

Tribunal with regard to the injuries sustained and the treatment taken by the appellant/claimant. It can be safely concluded that the appellant/claimant did not work for six months, the Tribunal granted Rs.3,000/- towards loss of earnings appears to be very less, as the date of occurrence of accident is 08/4/2003. Taking into consideration that the appellant/claimant is a practicing lawyer and did not practice for six months, the loss of earnings can be taken as Rs.18,000/- @ Rs.3,000/- per month. The Tribunal has granted a sum of Rs.30,000/- under the head of pain and suffering which appears to be low and the same can be enhanced to Rs.40,000/- for the injuries, pain and suffering undergone by the appellant/claimant and the compensation for medical and other expenses awarded by the Tribunal are based on record and no interference is warranted by this Court. The Tribunal has rightly fastened the liability on the respondents jointly and severally to pay the compensation, as the crime vehicle was insured with the second respondent and owned by the first respondent. There are no other circumstances warranting interference by this Court.

7. In the result, the Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.54,000/- to Rs.79,000/- and the rate of interest on the enhanced compensation is 7.5% per annum. The enhancement amount of compensation shall carry interest @ 7.5% per

annum from the date of filing MVOP.No. 916 of 2003 till the date of realization. On such deposit, the appellant/claimant is entitled to withdraw the entire compensation. There shall be no order as to costs.

8. As a sequel, miscellaneous petitions if any, pending in this MACMA shall stands disposed of.

DR. JUSTICE SHAMEEM AKTHER,



26/10/2017
I s L

HONOURABLE DR. JUSTICE SHAMEEM AKTHER



MACMA.No. 3004 OF 2005
(PARTLY ALLOWED)

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