

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.2441 of 2005

JUDGMENT:

The appellant-claimant filed this appeal under Section 173 of the Motor Vehicles Act, 1988 against the order and decree dated 03.01.2005 passed in M.V.O.P.No.51 of 2002 by the Special Judge for trial of Offences under SCs & STs (POA) Act-cum-VI Additional Metropolitan Sessions Judge-cum-XX Additional Chief Judge, Hyderabad at Secunderabad.

2. Heard learned counsel for appellant/claimant and perused the material on record. There is no representation on behalf of respondents.

3. The facts, in brief, are that on 14.03.2001, while the claimant was travelling by auto bearing No.AP-13-U-5880 to go to Ranigunj, the tractor and trailer bearing Nos. AP-23-E-429 and ATR-6094 respectively, driven by its driver in a rash and negligent manner, dashed the auto, as a result of which, he sustained multiple grievous injuries all over his body. He incurred huge amount towards medical expenses. Hence, he filed the claim petition claiming compensation of Rs.2,00,000/- payable by the respondents.

4. R1 remained *ex parte*. R2 filed counter denying the averments made in the claim petition as to manner of accident and the nature of injuries sustained by the claimant in the accident.

5. Based on the pleadings, the Tribunal framed three issues. To substantiate the claim, P.Ws.1 to 3 were examined and Exs.A1 to

A77 were marked on behalf of the claimant. R.W.1 was examined and Ex.B1 was marked on behalf of the respondents.

6. The Tribunal, after considering the entire evidence on record, awarded compensation of Rs.71,000/- with interest at 6% per annum from the date of petition till realisation.

7. Learned counsel for the appellant/claimant would submit that though the claimant was suffering from permanent disability, due to lack of legal advice, he has not obtained disability certificate from the Medical Board and now, he wants to file the said certificate and ultimately, prayed for enhancement of compensation.

8. It is brought to the notice of this Court that the appellant filed two miscellaneous petitions to receive the disability certificate for marking as Ex.A-78 and to amend the claim in M.V.O.P.No.51 of 2002.

9. A perusal of the record would show that the claimant sustained multiple fractures to his left leg below the knee and a surgical operation was conducted and steel rod was inserted. Due to lack of knowledge, he did not obtain disability certificate at the time of trial. Now, the claimant obtained the disability certificate from the Government and he wants to place on record and prayed for enhancement of compensation. As per the said certificate, the percentage of disability suffered by the claimant is at 67%. In view of the fact that the claimant obtained disability certificate, this Court is of the opinion that the matter requires further examination by the Tribunal for proper appreciation and determination of compensation payable to the claimant with regard to disability etc., on being

satisfied. In these circumstances, without going into the merits of the matter, the matter required to be remanded to the Tribunal for fresh disposal.

10. In the result, the appeal is disposed of, setting aside the order and decree dated 03.01.2005 in M.V.O.P.No.51 of 2002 on the file of Special Judge for Trial of Offences under SCs & STs (POA) Act-cum-VI Additional Metropolitan Sessions Judge-cum-XX Additional Chief Judge, Hyderabad at Secunderabad, and the matter is remanded to the Tribunal for disposal afresh, in accordance with law, after affording opportunity to both the parties. No order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

4th October, 2017
sj

Dr. SHAMEEM AKTHER, J

