

**HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA**

**C.M.A. No.4661 of 2004**

**JUDGMENT:**

The present appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') by the petitioner/claimant seeking enhancement of compensation as he was dissatisfied with the award dated 16.8.2004 in M.V.O.P. No.1256 of 2002 on the file of the Motor Vehicles Accidents Claims Tribunal-cum- X-Additional District Judge (FTC), Guntur, for Rs.9,000/- as against the claim he laid for Rs.1,00,000/- for the injuries he sustained in a road accident. The claim was admittedly laid under Section 166 of the Act.

2. Heard Mrs. Latha Alapati, for Sri A.Rajendra Babu, the learned counsel for the appellant. No representation for the 2<sup>nd</sup> respondent – The New India Assurance Company Limited. So far as the 1<sup>st</sup> respondent is concerned, appeal was dismissed on 8.2.2016, but the said dismissal is of no consequence 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. The learned counsel would submit that though, the petitioner sustained fractures to his left leg and spent amounts and filed documents to show the expenditure incurred towards medical expenses, nursing charges, implants, but, on the mere fact that the medical officer was not examined the said amounts were not granted

---

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

by the Tribunal. According to the learned counsel, an amount of Rs.9,000/- granted by the Tribunal towards compensation was totally inadequate. No doubt true, the Doctor was not examined, but Ex.A2 – certified copy of wound certificate issued by the Casualty Medical Officer, GGH, Guntur, is admitted in evidence. Therefore, the entries therein cannot be doubted. It is no doubt true Ex.A2 would show that against the medical advice he left the hospital while undergoing treatment, but, however, opinion of the medical officer that the injuries sustained by the petitioner were grievous in nature, is to be found therein. The description of injury and the opinion of the Casualty Medical Officer, would read thus:

“A diffused swelling with deformity of about 20 cm x 20 cm over middle 1/3<sup>rd</sup> of left thigh.

X-ray MO.3216/02, dt. 5.11.2002

X-ray Left Thigh AP Lateral Fracture middle 1/3<sup>rd</sup> of Femur.

X-ray opinion given by : Dr C.P. Narasimha Reddy, Asst. Professor of Radiology, GGHI.

Wound: Patient admitted in Ortho Unit I under Dr. Narasimha Rao, Asst. Prof. of Surgery, with I.P. No.37150 on 5.11.2002 at 7.15 a.m. and left against medical advice on 5.11.2002 at 11.00 a.m. Opinion given as GRIEVOUS basing on the wound and X-ray opinion the injury might be GRIEVOUS and might be due to blunt object and the injury is less than six hours.

Station : GGH, Guntur

Date : 12.12.2002

Sd/-

Casualty Medical Officer,  
GGH, Guntur.”

4. Turning to the amounts awarded by the Tribunal, a sum of Rs.1,000/- is awarded towards pain and suffering, a sum of Rs.2,000/- towards treatment, and a sum of Rs.6,000/- towards loss of earnings, thus, making a total sum of Rs.9,000/- with interest at 9% p.a. thereon. Though, the medical officer was not examined, the Tribunal ought not to have overlooked the contents of Ex.A2, wound

certificate issued by the Medical Officer and ought to have awarded pecuniary and non-pecuniary heads which the Tribunal did not do and thus deviated in appreciating the evidence on record. Therefore, for the injury the petitioner sustained, including pain and suffering a sum of Rs.30,000/- is awarded; towards extra nourishment a sum of Rs.5,000/- is awarded; towards attendant charges a sum of Rs.6,000/- is awarded at the rate of Rs.1,500/- per month for a period of four months; and towards loss of temporary earnings a sum of Rs.12,000/- is awarded at the rate of Rs.2,000/- per month for a period of six months; towards transportation charges a sum of Rs.2,000/- is awarded.

5. In the result, the Appeal is partly allowed enhancing the compensation from Rs.9,000/- (Rupees Nine thousand only) to Rs.55,000/- (Rupees Fifty five thousand only) against the respondents 1 and 2. The rate of interest at 9% p.a. granted by the tribunal on Rs.9,000/- shall be maintained and the enhanced amount of Rs.46,000/- will carry interest at the rate of 7.5% p.a., from the date of claim petition till the date of realization keeping in view, the ruling in **Rajesh v. Rajbir Singh**<sup>2</sup>. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Civil Miscellaneous Appeal shall stand closed.

\_\_\_\_\_  
A. SHANKAR NARAYANA, J

Dt. 28.08.2017

gbs

\_\_\_\_\_  
<sup>2</sup> (2013) 9 Supreme Court Cases 54