

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.4463 OF 2004

JUDGMENT:

The present appeal is preferred by the petitioner in O.P. No.2068 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal - cum - II Additional Chief Judge, City Civil Court, Hyderabad (for short 'Tribunal') challenging the order and decree, dated 21.05.2004, passed by the Tribunal on the ground that the amount of Rs.16,000/- awarded towards compensation for the injuries sustained by her in a road accident was very meager as the claim itself was for Rs.2,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'Act') and seeking enhancement of compensation.

2. Heard Sri T. Viswarupa Chary, learned counsel for the appellant - petitioner. No representation for respondent No.2 - Insurer. It is stated that learned standing counsel whose name is printed is no more. But, it is for the Insurance Company which has to act diligently in appointing yet another standing counsel which it did not do despite the fact that the present appeal relates to the year 2004. It is endorsed in the cause title of memorandum of grounds of appeal that respondent No.1, owner of the vehicle, is not a necessary party.

3. Now, the short question that arises for consideration is, whether the amount of Rs.16,000/- granted by the Tribunal is inadequate when kept in view, the injuries sustained by the appellant?

4. The doctor was examined as PW.2. He speaks about the cut injury and there appears to be 4 to 5 cut injuries. But, however, there is also fracture of wrist as could be seen from the medical certificate issued and even from the evidence of PW.2.

5. The Tribunal on assessing the evidence of PW.2, awarded Rs.10,000/- towards injury i.e., fracture and Rs.3,000/- towards pain and suffering, extra nourishment and transportation put together, and Rs.3,000/- towards medical expenses on the ground that the prescriptions given by the doctor were not tallying with the medical bills and, thus, a total sum of Rs.16,000/- was granted. It is clear from the record that the petitioner was admitted as in-patient and undergone surgical intervention and was treated from 24.04.2001 to 02.05.2001 having been discharged.

6. The learned counsel for the appellant would submit that the petitioner was 19 years old and she was working as a Receptionist, and on account of restriction in the wrist movement, as observed by PW.2, there has been disfiguration so far as the injured wrist is concerned, and the same affected the future prospects of the petitioner. Be that as it may, the amount of Rs.10,000/- granted by the

Tribunal for fracture is far below by any standards and, therefore, the same is enhanced to Rs.25,000/-. So far as pain and suffering is concerned, the Tribunal awarded a sum of Rs.1,000/-, the same is enhanced to Rs.10,000/- keeping in view, that the petitioner was in-patient for more than a week and had to undergo physiotherapy even as could be seen from the evidence of PW.2. Towards extra nourishment, a sum of Rs.5,000/- is granted, and towards transport charges, a sum of Rs.2,000/- is granted. The amount of Rs.3,000/- was granted by the Tribunal basing on Ex.A-7 though, the learned counsel would contend that the petitioner has spent Rs.42,000/-, but the concerned person was not examined. However, keeping in view, the fracture and the Tribunal has already awarded Rs.3,000/- without discarding the bills, the same is enhanced to Rs.30,000/-. Thus, in all, the petitioner is entitled to Rs.72,000/- as compensation as against Rs.16,000/- awarded by the Tribunal.

7. Concerning rate of interest, the Tribunal awarded at 9% per annum on Rs.16,000/- and the same is maintained, but on the enhanced amount of Rs.56,000/-, interest at 7.5% per annum is awarded in view of the decision rendered by the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

8. In the result, the appeal is allowed in part, and the order and decree, dated 21-05-2004, in O.P. No.2068 of 2001, passed by the

¹. 2013 ACJ 1403

Tribunal, are modified, enhancing the compensation to Rs.72,000/- (Rupees seventy two thousand) from Rs.16,000/- with interest at the rate of 9% per annum on the amount of Rs.16,000/- granted by the Tribunal and at the rate of 7.5% per annum on the enhanced amount of Rs.56,000/- from the date of petition till realization, and in all other respects, the order and decree is confirmed. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

August 29, 2017.
Mgr

A. SHANKAR NARAYANA, J

