

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Civil Miscellaneous Appeal No.2794 OF 2004

JUDGMENT:

Requesting to enhance the compensation on the ground that the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-I Additional District Judge, Tirupati, by his order dated 28.2.2001 in M.V.O.P. No.604 of 1994 on his file granted a meagre sum of Rs.15,000/- together with interest at 12% p.a. from the date of petition till realization against the two vehicle drivers in the ratio 60 : 40 and the amount, if any, awarded under 'No Fault Liability', the same shall be deducted from the award passed in the O.P., the present Appeal is preferred.

2. Heard Sri P.V. Vidyasagar, learned counsel for the appellants and Sri E. Venugopal Reddy, learned Standing Counsel for the 6th respondent – United India Insurance Company Limited. No representation on behalf of 3rd respondent – Oriental Insurance Company Limited.

3. The learned counsel for the appellant would submit that the evidence of P.W.2 as well as the medical record filed and exhibited before the Court would amply prove that the petitioner deserves to be granted Rs.1,00,000/- as prayed for as she suffered a lot on account of the injuries sustained and was visiting J.S.S. Hospital, Mysore, having been treated initially at S.N.R. Hospital, Kolar, and she was under continuous treatment for quite a long time subsequent to initial treatment in the year 1993.

4. The evidence of P.W.2 becomes material in the present context. He is one Dr. Ravi Shankar. According to his evidence, he examined the petitioner on 14.9.1997 and issued Ex.A4-Medical Certificate. He found contusions over the right shoulder and, initially, treated at S.N.R. Hospital, Kolar, for her left upper lip lacerated injury, over the right eye brow and for bleeding injury from tooth with pain. He admitted that no treatment was given in his hospital. When suggested by the learned counsel for the respondent No.3, that the patient was not suffering from any disability and injuries were simple in nature, it was denied by P.W.2. But, in chief examination, he does not assert whether P.W.1 sustained any grievous injury. He only states that he found contusion over the back of right shoulder of P.W.1 and has taken treatment, initially, at S.N.R. Hospital, Kolar, for her injuries over her left upper lip lacerated injury, over the right eye brow and for bleeding injury from tooth with pain and Ex.A3 Wound certificate issued. Whether this Doctor really treated P.W.1 or not is to be found in the evidence of P.W.1. In her cross-examination, when the learned Standing Counsel for the 6th respondent questioned her, she admits that Ex.A3 Wound certificate does not show that she sustained injury on her left thigh and right shoulder. She also admits that Ex.A4 shows that she was taken treatment at J.S.S. Hospital, Mysore on 7.12.1993. Therefore, it is difficult to accept the version of the petitioner/appellant that she sustained grievous injuries, when the medical record would indicate *contra* to what she has asserted and what she pleaded.

5. The Tribunal has granted Rs.10,000/- for injuries, including pain and suffering; and Rs.5,000/- towards medical, transport, extra nourishment, attendants, lodging expenses etc., thus making a total sum of Rs.15,000/-.

6. An amount of Rs.10,000/- awarded by the Tribunal towards injuries including pain and suffering, can be enhanced keeping in view the fact that she was referred to J.S.S. Hospital, Mysore, from S.N.R. Area Hospital, Kolar, and, accordingly, the same is enhanced to Rs.20000/- from Rs.10,000/-. An amount of Rs.5,000/- granted towards medical, transport, extra nourishment, attendants, lodging expenses etc., including medical expenses covered by the bills, the same is enhanced to Rs.15,000/-. Thus, the claimant is totally entitled to Rs.35,000/- as against Rs.15,000/- granted by the tribunal.

7. For the reasons aforementioned, the Appeal is allowed in part. The compensation of Rs.15,000/- (Rupees Fifteen thousand only) as awarded by the Tribunal is enhanced to Rs.35,000/- (Rupees Thirty Five thousand only). The rate of interest at 12% p.a. granted by the tribunal on Rs.15,000/- is maintained, and on the enhanced amount i.e., Rs.20,000/- interest at the rate of 7.5% p.a. from the date of petition till realization is granted. Except to the aforesaid extent, the order passed by the Tribunal is confirmed in all other respects i.e., apportioning of negligence between the drivers of both vehicles in the ratio 60 : 40. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the Civil Miscellaneous Appeal shall stand closed.

A. SHANKAR NARAYANA,J

12th September, 2017
gbs

