

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.1744 OF 2004

JUDGMENT:

On the ground that the amount of Rs.15,000/- awarded by the learned Chairman, Motor Accidents Claims Tribunal - cum - II Additional District Judge, Kadapa at Proddatur, by the order dated 24.03.2004 in M.V.O.P. No.324 of 2000 as very meagre, since the claim itself was laid for Rs.1,75,000/-, under Section 166 of the Motor Vehicles Act, 1988, the present appeal is preferred by the petitioner – claimant, under Section 173 of the Motor Vehicles Act, 1988.

2. To be precise enough, the Tribunal having found from Ex.A-2, awarded Rs.6,000/- for the three (3) simple injuries sustained by the appellant - petitioner, Rs.3,000/- towards hospitalisation for two months under the head of temporary loss of earnings, Rs.1,000/- towards transportation charges and Rs.2,000/- towards pain and suffering.

3. The Tribunal observed that though, PW.1 deposed that he has not married on the medical advice and the medical opinion was that he was not fit for marriage on account of the injuries sustained in the accident, since PW.1 has not examined any witnesses, more particularly, the Doctor, to show that he is unfit for marriage, discarded that stand.

4. Heard Sri R. Radha Krishna Reddy, learned counsel for the appellant - petitioner, and Sri Vutla Srinivasa Rao, learned counsel for respondent No.2 - United India Insurance Company limited.

5. Perused the order and the decree under challenge and the material on record.

6. The claim was dismissed against respondent Nos.3 and 4, who are owner and insurer of the Tractor-trailer bearing Nos.AP-04-U-399 and AP-04-U-401 and, in fact, it is also endorsed in the cause title of the grounds of appeal that respondent Nos.3 and 4 are not necessary parties.

7. So far as factual aspect is concerned as to the manner in which the accident occurred and PW.1 sustained injuries, there is no dispute between the parties.

8. As regards the nature of injury to pelvic region, there is dispute between the parties. The learned counsel for the appellant would submit that the local doctor at Kadapa has treated the petitioner for 50 days and after having found that there was fracture in pelvic of PW.1, as he needs special treatment, he was referred to SVRR Hospital at Tirupati. The certificate/discharge summary issued by SVRR Hospital under Ex.A-6 is marked by the petitioner though, he has not examined any of the doctors from the said hospital. The certificate is dated 07.09.1999, which is almost one year after taking place of the accident. It is to the effect that the petitioner was

admitted on 03.07.1999 and was discharged on 02.08.1999. He was treated for urethra. There is an endorsement in the brackets that it cannot be used for medico legal purpose. But, when the medical officer, the staff of SVRR Hospital issued it, for what reason that endorsement was made is not forthcoming. But the fact is, it is difficult to discard Ex.A-6 when there is evidence on record to show besides the assertion of PW.1 that he was treated in SVRR hospital on the reference made by the local doctor at Kadapa. From local nursing home, the doctor who treated the petitioner also issued Exs.A-3, A-4 and A-5, showing that PW.1 was treated from 09.04.1998 to 28.05.1998 for fracture of pelvic with spectrum urethra (A4).

9. The petitioner has also filed medical bills. Most of the bills relate to SVRR Hospital, Tirupati. It is no doubt true that doctor was not examined, but, in view of the decision of a learned Single Judge of this Court in **New India Assurance Company Limited v. Korukonda Appa Rao**¹, even without the examination of the medical officer, medical bills can be accepted. When followed the said ruling, certainly, the bill amounts, which are now presented by the petitioner marked as documents have to be accepted.

10. Therefore, the petitioner is entitled to the bill amounts mentioned therein and the submission of the learned standing counsel for the insurance company does not merit acceptance in view of the aforesaid decision.

11. Now turning to the amounts granted by the Tribunal, while maintaining Rs.6,000/- towards simple injuries, keeping in view the treatment he has undergone and the fracture to the pelvic and the inconvenience he had faced, towards injury proper as well as pain and suffering and loss of temporary earnings, extra-nourishment put together, a sum of Rs.75,000/- is granted instead of dividing it under different heads.

12. Thus, the petitioner is entitled to a total compensation of Rs.81,000/- (Rupees eighty one thousand only) and the same is accordingly granted as against Rs.15,000/- awarded by the Tribunal. However, the rate of interest granted by the Tribunal at 9% per annum from the date of petition till realization, is maintained on the amount of Rs.15,000/- granted by the Tribunal, but on the enhanced compensation, interest is granted at 7.5% per annum as per the decision of the Hon'ble Apex Court in **Rajesh v. Rajbir Singh and others**².

13. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the order and the decree under challenge by enhancing the compensation, as indicated above. There shall be no order as to costs.

¹ 2010 (6) ALD 566
² 2013ACJ1403 = 2013(4)ALT35

As a sequel thereto, Miscellaneous Applications, if any,
pending in the appeal stand disposed of.

A. SHANKAR NARAYANA, J

October 12, 2017.

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