

HON'BLE Dr.JUSTICE SHAMEEM AKTHER

MACMA Nos.1449 & 2662 of 2005

COMMON JUDGMENT:

These appeals arise out of the common order dated 19.08.2004 passed in M.V.O.P.Nos.112 and 113 of 2000, by the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-III Addl. District Judge, Guntur; as such, the same are heard together and disposed of by this common order.

2. Learned counsel for the appellants/claimants contended that the Tribunal has granted compensation of Rs.92,908/- in MVOP No.112 of 2000 and Rs.1,94,301/- in O.P.No113 of 2000, which is meagre. Both the appellants/claimants have suffered grievous injuries. They suffered 25 and 30 per cent permanent disability, there is evidence of claimants as well as the Doctor, who treated them and there are also medical certificates on record. The Tribunal has also granted meagre compensation with regard to pain and suffering, transportation expenses and also marriage prospects of claimant in MVOP No.113 of 2000 and ultimately prayed to enhance the compensation.

3. On the other hand, learned counsel appearing on behalf of the respondents-insurer, contended that the Tribunal had granted adequate compensation to the appellants in all aspects and left nothing unattended, the finding of the Tribunal is based on record and there are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeals.

4. In view of the contentions put forth by the learned counsel for the parties, the only point which needs determination in these appeals is whether the appellants are entitled for enhancement of compensation?

5. In MVOP No.112 of 2000/MACMA No.1449 of 2005, as per the evidence on record, the appellant/claimant has suffered the following injuries: fracture of right femur, fracture of the pelvis and also EC fracture left femur and consequently suffered 25 per cent disability. P.W.4, the Doctor, who treated her, deposed the same. It has also come in the evidence of P.W.1/claimant. There is medical record to substantiate the same. The Tribunal had believed the said injuries and also the claimant/appellant undergoing surgeries and held that claimant/appellant was earning Rs.60/- to Rs.70/- per day and taking notional income as Rs.1,500/- per month as per Schedule II and the age of the appellant/claimant as 30 years, applied multiplier "14" and awarded Rs.52,500/- towards loss of disability. But, there is evidence on record that the appellant/claimant was earning Rs.60/- to Rs.70/- per day. If Rs.60/- is taken as the daily income of the appellant/claimant, her annual income would come to Rs.18,000/-. Appellant suffering 25 per cent disability which is borne by the record. If the same is taken into consideration, multiplier applicable would be "14". Taking the above factors into consideration, the compensation payable on account of disability would be Rs.63,000/- (Rs.18,000 x 14 and 1/4th thereof). So, the appellant/claimant is

entitled to Rs.63,000/- towards injuries suffered by her instead of Rs.52,500/- awarded by the Tribunal. The Tribunal has awarded Rs.34,908/- towards medical expenses. The same is borne by the record and therefore no different view can be taken. So, the same is rounded off to Rs.35,000/-. Further, the Tribunal has awarded Rs.5,000/- towards pain and suffering. However, as seen from the record, appellant/claimant has suffered two grievous and two simple injuries, i.e., fracture of right femur, fracture of the pelvis and also EC fracture left femur. So, it can be enhanced to Rs.20,000/- from Rs.5,000/-. Towards transportation charges, the Tribunal has only granted Rs.500/-. However, as seen from the record, appellant/claimant, having undergone surgery was made to visit the hospital. Therefore, on this score, the amount of Rs.500/- granted by the Tribunal is enhanced to Rs.15,000/-. So, in all, the appellant/claimant granted a compensation of Rs.1,33,000/-.

6. The appellant/claimant in MVOP No.113 of 2000/MACMA No.2662 of 2005, is the daughter of the appellant/claimant in MVOP No.112 of 2000/MACMA No.1449 of 2005. As per the evidence of the Doctor, appellant/claimant has suffered injuries on her right forehead, right eye, left forearm, left knee and right thigh resulting in fracture of left forearm, left knee, right thigh and frontal region and she also lost eyesight completely. Ex.A.7 – wound certificate reveals the same. There is also evidence of appellant/claimant who was examined as P.W.2, to the effect that as on the date of accident, she

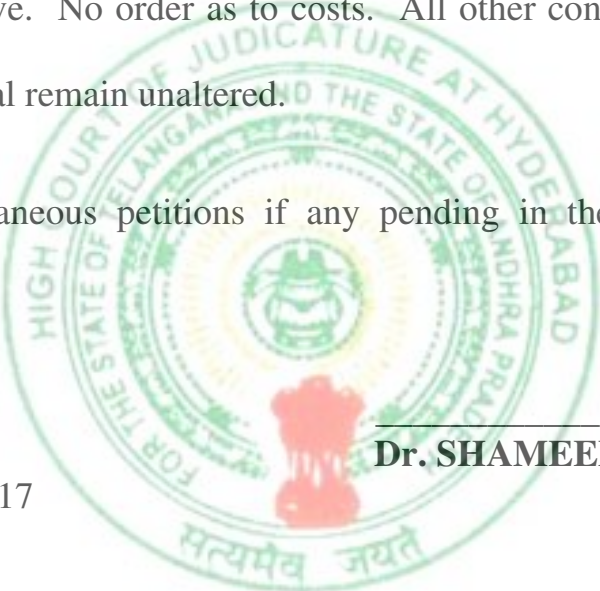
was studying X Class. Had she completed X Class, she would have earned Rs.1,200/- to Rs.1,500/- per month. As per the evidence of the Doctor who is examined as P.W.6, appellant/claimant suffered 30 per cent disability and she has lost sight in one eye and became blind in that eye. She was aged 14 years on the date of the accident. The same is established from the evidence on record. The Tribunal had taken the notional income of the appellant/claimant at Rs.1,500/- per month and awarded Rs.72,000/- towards 30 per cent disability suffered by her. There is no infirmity in the same and therefore the same is confirmed. The Tribunal has awarded Rs.84,801/- towards medical expenses. The same is borne by the record and it needs no variance. As seen from the record, she suffered four grievous injuries and she has lost sight in one eye, which amounts to disfiguration and as a result of the same her marriage prospects have come down. Therefore, she is entitled for Rs.75,000/- towards loss of marriage prospects as against Rs.25,000/- awarded by the Tribunal on that score. The Tribunal awarded Rs.10,000/- towards pain and suffering, which is very meagre. As the injuries suffered by her are grievous as indicated above, she is entitled to Rs.30,000/-, against Rs.10,000/- awarded by the Tribunal. The Tribunal has only granted Rs.500/- towards transportation charges and Rs.2,000/- towards extra nourishment and attendant charges which appears to be on the lower side. The same is enhanced to Rs.25,000/-. In all, appellant/claimant is entitled to a compensation of Rs.2,86,801/- as against Rs.1,94,301/- awarded by the Tribunal.

7. The Tribunal has granted 9 per cent interest on the compensation awarded by it, but, in view of the decision in **Rajesh v. Rajbir Singh**¹, the interest payable on the compensation awarded by the Tribunal to the appellants/claimants is reduced from 9 per cent to 7.5 per cent from the date of filing of the petitions till the date of deposit. Since the accident occurred way back in the year 1999, the appellants/claimants are permitted to withdraw the entire amount.

8. In the result, the appeals are allowed in part to the extent indicated above. No order as to costs. All other conditions imposed by the Tribunal remain unaltered.

Miscellaneous petitions if any pending in the appeals stand closed.

August 11, 2017
MRR


Dr. SHAMEEM AKTHER, J

¹ 2013ACJ1403 = 2013(4) ALT 35