

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.3284 of 2004

JUDGMENT:

Feeling dissatisfied with the award of Rs.16,000/- as compensation, by the order and decree dated 08.12.2003 in O.P.No.680 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Karimnagar (for short, 'the Tribunal'), as against the claim of Rs.1,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), for the injuries sustained by the appellant - petitioner in a road accident, the instant appeal is preferred under Section 173 of the Act, seeking enhancement of compensation.

The appellant herein is the petitioner, while respondent Nos.1 to 3, who are the driver, owner and insurer of the Ambulance bearing No. AIM 1781, which was involved in the accident, were respondent Nos.1 to 3, respectively, in the original petition.

For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

Heard Sri P. Prabhakar, learned counsel for the appellant – petitioner, and Sri N.J. Sunil Kumar, learned Standing Counsel for respondent No.3 – Insurance Company. Against respondent No.1 – owner of the Ambulance, which was involved in the accident, the present appeal stood dismissed for default vide order dated 08.02.2016. Since he was set *ex parte* and suffered decree in the O.P., his presence is

immaterial in deciding the request herein. Though, respondent No.2 received notice, he has not entered appearance.

The Tribunal, on appreciation of evidence on record, awarded a sum of Rs.16,000/-, which consists of Rs.10,000/- towards pain and suffering for grievous injury, which is a fracture, sustained by the petitioner as per Ex.A2 and Rs.6,000/- @ Rs.3,000/- per month for two months towards loss of temporary income.

As could be seen from the evidence on record, it is clear that Ex.A2 reflects that the petitioner sustained fracture to scapula, for which a sum of Rs.10,000/- is awarded. The incident occurred in the year 2002. The medical expenditure of Rs.60,000/- to Rs.70,000/- said to have spent by the petitioner was not accepted to by the Tribunal on the ground that in his cross-examination, the petitioner, who is examined as PW.1, admitted that he did not pay any expenses in Singareni Area Hospital, Godavaridhani. Learned counsel for the appellant would fairly submit that the petitioner is not entitled to medical expenses. However, when kept in view, the suffering undergone by the petitioner, the amount of Rs.10,000/- granted by the Tribunal towards grievous injury requires enhancement and, therefore, the same is enhanced to Rs.20,000/-. Towards extra nourishment, no amount is awarded by the Tribunal. Therefore, a sum of Rs.5,000/- is awarded towards extra nourishment. The amount of Rs.6,000/- awarded by the Tribunal under the head loss of income is maintained. Thus, the compensation of Rs.16,000/- granted by the Tribunal is enhanced to Rs.31,000/- (20,000 + 5,000 + 6,000/-).

So far as the rate of interest is concerned, the Tribunal granted the same at 9% per annum and the same is maintained on the compensation of Rs.16,000/- granted by the Tribunal. However, on the enhanced amount of Rs.15,000/-, interest at 7.5 % per annum is granted from the date of petition till realization in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation with interest, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the instant appeal, stand closed.

12.09.2017
v v

JUSTICE A.SHANKAR NARAYANA

¹ 2013 ACJ 1403