

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

C.M.A.No.1021 OF 2006

JUDGMENT:

Questioning the award of Rs.3,46,313/- towards compensation and also the interest at the rate of 9% per annum, by order, dated 17.07.2006, in W.C. Case No.11 of 2004 (NF) on the file of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Circle -1, Ranga Reddy District, Hyderabad, for the injuries sustained by respondent No.1 - applicant, the New India Assurance Company Limited, respondent No.2 in the aforesaid W.C. Case, preferred the present appeal, under Section 30 of the Workmen's Compensation Act, 1923.

2. Heard Sri G.S. Prakash Rao, learned Standing Counsel for the appellant, and Sri N. Chandar Sekhar Reddy, learned counsel for respondent No.1.

3. In fact, the appeal is dismissed against respondent No.2 for default. No effort is made to get the dismissal order set aside.

4. The main submissions of the learned Standing Counsel for appellant are, firstly, that the learned Commissioner went wrong in applying 100% disability, as against 35% disability spoken to and mentioned in the certificate issued by AW-2. Second submission is that the interest awarded at 9% per annum is at higher rate.

5. Learned counsel for respondent No.1 would support the order under challenge both in regard to the quantum of compensation as well as the rate of interest awarded.

6. The points that arise for consideration are:

“1) Whether the compensation awarded by the learned Commissioner is on higher side, without there being any material to enable him to award that much amount?

2) Whether the interest at the rate of 9% per annum awarded by the learned Commissioner is on higher side?”

POINT No.1:

7. Though, the order under challenge does not record the relevant details as to the treatment undergone by respondent No.1 in various hospitals and respondent No.1 even suffering with some sort of damage to the kidneys, but, however, looking at the contents of Ex.A11, the evidence of AW-2 and treating the wage of respondent No.1 at Rs.1,874/- per month and VDA at Rs.1,130/- per month, making a total of Rs.3,004/-, as per G.O.Ms.No.30, dated 27.07.2000, and disability as 100%, as the very nature of job of respondent No.1 was to drive the auto-rickshaw and on account of the accident and grievous injuries to one of his hands, which stiffened and disabled him from pursuing his profession, the learned Commissioner arrived at Rs.3,46,313/- ($\text{Rs.3,004} \times 60/100 \times 192.14 \times 100\%$) towards compensation. When the documentary evidence let in by the respondent No.1 is examined thoroughly, it is clear that he initially joined in B.B.R. Hospital, a local hospital, soon after the accident had

taken place, later, with a gap of about one month twenty five days, he again got admitted in E.S.I. hospital and thereafter, he had also got treated at Osmania General Hospital and lastly, he went to Nizam's Institute of Medical Sciences (NIMS), where he took treatment even for the kidney damage or the damage to urethra. The procedure undergone in various hospitals has been recorded by the NIMS doctor, as could be seen from Ex.A11.

8. When these facts are brought to the notice of learned Standing Counsel for appellant, he, of course, concedes, as he cannot go against the medical evidence. No doubt, the doctor from NIMS is not examined, but the document cannot be discarded on the ground that the doctor from NIMS was not examined, as the Medical Officer was examined as AW-2, who spoke as to the injuries sustained by respondent No.1. Thus, when viewed in the context of restriction of movement to the extent of 100% in performing his duty as a driver in pursuing his profession, certainly, the finding recorded by the learned Commissioner in assessing the amount, to which respondent No.1 is entitled, cannot be faulted. Therefore, the amount of Rs.3,46,313/- arrived at by the learned Commissioner does not warrant interference.

POINT No.2:

9. Turning to the rate of interest awarded by the learned Commissioner at 9% per annum, when, kept in view, the decision rendered by a three judge bench of the Honourable Supreme Court in

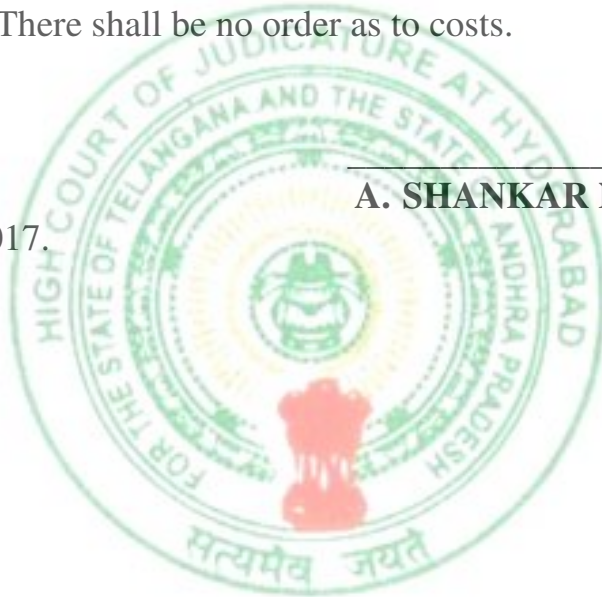
Rajesh and others v. Rajbir Singh and others¹, it is reasonable to award the rate of interest at 7.5% per annum.

10. Therefore, only the rate of interest is reduced from 9% per annum to 7.5% per annum and in all other respects, the order under challenge is maintained.

11. The appeal is, thus, allowed in part to the extent indicated in the above. Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

August 02, 2017.
MD

A. SHANKAR NARAYANA, J



¹ (2013) 9 SCC 54