

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No. 1834 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-petitioner in O.P. No.240 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge (Fast Track Court), Ranga Reddy District at L.B.Nagar (for short, 'the Tribunal'), having got dissatisfied with the award of compensation of Rs.1,500/- with interest at the rate of 9% per annum from the date of petition till realisation, granted by the Tribunal, *vide* the order dated 10.03.2005, as against the claim of Rs.2,00,000/- laid under Section 166 of the Act for the injuries sustained by him in a motor accident occurred on 14.05.2002.

2. Heard the learned counsel for the appellant-petitioner and the learned Standing Counsel for respondent No.2-insurer. The appeal against respondent No.1-owner of the crime vehicle is dismissed on 13.04.2016 for default. However, dismissal of the appeal for default against respondent No.1-owner of the accident vehicle is of no consequence to decide the quantum of compensation, in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**¹.

3. The parties hereinafter are referred to as arrayed before the Tribunal.

4. Learned counsel for the appellant-petitioner would contend that the petitioner suffered fracture to his left femur in the accident

¹ 2001(1) ALT 495 (D.B.)

occurred due to the rash and negligent driving of the driver of the DCM van bearing No.AP 9U 6387 on 14.05.2002; to substantiate the same, the petitioner deposed as P.W.1 and also got marked relevant documents as Exs.A.1 to A.9; the Tribunal awarded only Rs.1,500/- as against the claim of Rs.2,00,000/-, which is meagre and not basing on the evidence on record; and ultimately, prayed to enhance compensation as claimed.

5. On the other hand, learned Standing Counsel for respondent No.2-insurer would submit that there is no iota of evidence to believe that the petitioner suffered fracture to his left shaft femur; the Tribunal had elaborately dealt with the medical evidence and oral evidence on record and held that the petitioner suffered only simple injury and granted Rs.1,500/-, which is quite just and reasonable; there are no circumstances to enhance the compensation; and ultimately, prayed to dismiss the appeal.

6. As per the material available on record, the date of occurrence of the accident is 14.05.2002 at about 9 a.m. The medical record and the first information report reveal that the petitioner suffered injuries, but there is no mention of fracture injuries in those documents. In Ex.A.8-X-ray report dated 05.01.2005, it is mentioned that there was a united fracture of 1/3rd of shaft of right femur with internal fixation by plating and screws. In Ex.A.5-discharge card, fracture is shown to left shaft femur. The petitioner did not choose to examine the doctor to prove that he suffered fracture to his right femur. The medical evidence placed on record is inconsistent and contra to the oral evidence of the petitioner. The Tribunal while dealing with the matter, held that the petitioner suffered simple injury and awarded compensation of Rs.1,500/- on account of pain and suffering and mental

agony, etc. As there is no legally acceptable evidence to believe the grievous injury as contended by the petitioner, no infirmity can be found in the impugned order. The appeal is devoid of merits and it is liable to be dismissed.

7. In the result, this appeal is dismissed confirming the order dated 10.03.2005 passed by the Tribunal in O.P.No.240 of 2003. There shall be no order as to costs.

8. Miscellaneous Petitions pending, if any, shall also stand dismissed.

Date: 25.10.2017
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Dr. SHAMEEM AKTHER, J