

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3283 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), is filed by the appellant-the United India Insurance Company Limited, aggrieved by the grant of compensation of Rs.1,34,000/- as against a claim of Rs.1,50,000/- to the 1st respondent/claimant, by the Chairman, III Motor Accident Claims Tribunal, Warangal ('the Tribunal', for brevity), vide order, dated 03.12.2004, passed in O.P.No.271 of 2003.

2. Heard the learned counsel for both sides and perused the record.

3. The learned Standing Counsel for the appellant-Insurance Company would contend that the Tribunal granted excess compensation of Rs.1,34,000/- with interest @ 9% per annum from the date of petition till the date of deposit/realisation in favour of the 1st respondent/claimant, for the injuries suffered by him in the subject accident occurred on 15.11.2002. The Tribunal took the monthly income of the claimant as Rs.10,055/- without there being any evidence on record and also granted excess compensation under other heads. The rate of interest of 9% per annum from the date of petition till the date of deposit/realisation granted by the Tribunal on the amount awarded as compensation is exorbitant and ultimately prayed to allow the appeal by setting aside the Order under challenge.

4. On the other hand, the learned counsel for the 1st respondent-claimant would contend that the Tribunal had taken all the relevant factors into consideration and granted just and reasonable compensation of Rs.1,34,000/- with interest @ 9% per annum from the date of petition till the date of deposit/realisation. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the 1st respondent-claimant sustained injuries in the subject accident occurred on 15.11.2002, due to rash and negligent driving of the driver of the auto bearing registration No.AP-36-V-5267. The only question that falls for determination in this appeal is whether the Tribunal is justified in granting a compensation of Rs.1,34,000/- with interest @ 9% per annum from the date of petition till the date of deposit/realisation in favour of the 1st respondent-claimant.

6. During pendency of this appeal before this court, the injured claimant died and his Legal Representatives were brought on record as respondents 3 and 4, vide order, dated 17.07.2018, passed by this Court in MACMAMP No.1262 of 2015.

7. As per Ex.A.3-Certified copy of Wound Certificate, the 1st respondent-claimant sustained the following injuries in the subject accident occurred on 15.11.2002.

1. Fracture of 10 cm on the right temporal parietal region.
2. Lacerated wound of 1 x ½ cm on right occipital region.

8. As per Ex.A.3, injury No.1 is grievous in nature and injury No.2 is simple in nature. P.W.2-Dr.T.Sanjay, Chief Neuro Surgeon, Rohini Hospital, Hanamkonda, deposed that on 15.11.2002, at 12:00 PM, the injured claimant was brought to casualty ward of the said hospital in an unconscious state with paralysis of left side limbs and inability to speak; the external injury was right occipital abrasion; C.T. Scan-Brain Plain with bone windows done after about one and half hour of suffering the injury revealed right temporo-parietal large acute extra dural hematoma with mass effect and midline shift; emergency surgery was conducted for one and half hour, craniotomy and evacuation was done under general anaesthesia.

9. Admittedly, the 1st respondent-claimant was hospitalised from 15.11.2002 to 02.12.2002. It is a case of head injury. He underwent a surgery for one and half hour. He is a Government employee. As per Ex.A.11, the injured claimant applied for half pay leave for 120 days, which was commuted to 60 days, with effect from 16.11.2002 to 14.01.2003. Considering all these aspects, the Tribunal granted an amount of Rs.70,000/- for head injuries, pain and suffering, Rs.20,000/- towards loss of earnings, Rs.42,372/- towards medical expenses and extra-nourishment, Rs.1,000/- towards transportation charges and Rs.500/- towards damages to clothing. In all, the Tribunal granted a compensation of Rs.1,33,872/- rounded off to Rs.1.34,000/- with interest @ 9% per annum from the date of petition till the date of deposit/realisation. In view of the nature of injuries suffered by the claimant and the consequences arose

therefrom, it cannot be held that the Tribunal granted excess compensation. The Tribunal is justified in granting a compensation of Rs.1,34,000/-. There is nothing to take a different view.

10. The Tribunal granted interest at the rate of 9% per annum on the amount granted as compensation from the date of petition till the date of deposit/realisation. It is apt to refer to the decision of the Apex Court in Dharampal Vs. State Road Transport Corporation¹, wherein, the Apex Court awarded interest at the rate of 7.5% per annum on the amount awarded as compensation. There are number of other decisions, wherein, interest was awarded at the rate of 7.5% per annum on the amount awarded as compensation. In view of the same, awarding interest at the rate of 9% per annum on the amount awarded as compensation by the Tribunal is held excessive.

11. Accordingly, this appeal is allowed in part modifying the Order, dated 03.12.2004, passed in O.P.No.271 of 2003 by the Tribunal, only to the extent of reducing rate of interest from 9% per annum to 7.5% per annum on the amount granted as compensation (Rs.1,34,000/-) from the date of application till realisation. The other terms of the Order under challenge remain unaltered. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

10th September, 2018
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¹ MANU SC 7680 2008