

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1504 OF 2006

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/claimant aggrieved by the grant of compensation of Rs.45,000/- as against a claim of Rs.2,00,000/-, by the V Additional District Judge – cum - Chairman, Motor Accident Claims Tribunal (Fast Track Court), Kurnool at Nandyal (for short, “the Tribunal”) *vide* order, dated 21.04.2006, passed in M.V.O.P.No.100 of 2004.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant and the learned Standing Counsel for the National Insurance Company Limited appearing for respondent No.2, and perused the record.

3. Learned counsel for the appellant/claimant would contend that the claimant sustained fracture of C2 vertebra, which is evident from Ex.A-2 – wound certificate and there is also evidence of P.W.2 – Doctor with regard to the said injury; that the claimant suffered 15% disability, but the Tribunal had taken the disability as 5% and awarded the total compensation of Rs.45,000/-, which is meagre, and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel for the National Insurance Company Limited appearing for respondent No.2 would contend that the Tribunal had taken all the factors into consideration and rightly assessed the compensation at

Rs.45,000/-, which is just and reasonable; that there are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both the counsel, the short point that falls for determination is:

“Whether the appellant/claimant is entitled for enhancement of compensation?”

6. **POINT:-** The evidence of P.Ws.1 and 2 and recitals in Ex.A-2 – Wound Certificate reveals that the claimant suffered fracture of C2 vertebra, which is a grievous injury. P.W.2, who is a Civil Assistant Surgeon in Government General Hospital, Kurnool, reveals the treatment taken by the claimant in that hospital. There is also X-ray to prove the injury. As per the evidence of P.W.2, the claimant suffered fracture of subluxation C-2 over C-3 vertebra and she can attend her work as usual except travelling. Considering the same, as there is justification in holding that the claimant suffered 5% disability, the Tribunal granted a compensation of Rs.10,000/- towards pain and suffering, Rs.11,000/- towards compensation for medical and other expenses and Rs.24,000/- towards compensation for permanent disability and future income and future discomforts. The medical and other expenses of Rs.11,000/- were granted by the Tribunal basing on Ex.A-5 – bunch of medical bills and other evidence on record. There is also justification in granting the compensation of Rs.10,000/- for pain and suffering. But, the Tribunal awarded an amount of Rs.24,000/- only for 5% permanent disability and future loss of income and discomfort, which is on lower side, and the same can

be enhanced to Rs.34,000/-. Thus, in all, the claimant is entitled for a total compensation of Rs.55,000/- (Rupees fifty five thousand only). As per the settled legal position, the appellant/claimant is entitled for interest at the rate of 7.5% per annum on the enhanced amount of compensation.

7. Accordingly, this appeal is allowed in part modifying the order, dated 21.04.2006, passed in M.V.O.P.No.100 of 2004 by the Tribunal, enhancing the compensation from Rs.45,000/- to Rs.55,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. On deposit of the compensation, the appellant/claimant is permitted to withdraw the entire amount along with the accrued interest. There is no change in the other directions given by the Tribunal. There shall be no order as to costs.

8. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 27.07.2018
AMD

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



M.A.C.M.A.No.1504 OF 2006

Date: 27.07.2018

AMD