

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A.No.3262 of 2004

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicle's Act, 1988 (for short 'the Act'), by the appellant-claimant aggrieved by the order dated 05.05.2004 in M.V.O.P.No.478 of 2002 on the file of the Motor Accident Claims Tribunal-cum-I Additional District Judge, Kadapa (for short 'the Tribunal').

2. Heard the learned counsel for appellant-applicant, the learned counsel for 2nd respondent-Insurance Company and perused the record.

3. Learned counsel for the appellant-claimant would contend that the appellant-claimant suffered injuries, his bullock cart was damaged, one bull died and another bull suffered grievous injuries in the subject road accident. He has documents to substantiate the same. The Tribunal had granted compensation of Rs.52,994/- with interest @ 9% per annum, which is meagre. The Tribunal did not grant any compensation for the death of the bull and injury to another bull. No damages were awarded in respect of the bullock cart and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, learned counsel for the 2nd respondent-Insurance Company would contend that the Tribunal assessed compensation on all heads. There are no circumstances to interfere with the compensation and ultimately prayed to dismiss the appeal.

5. There is no dispute with regard to the appellant and his bulls suffering injuries in a road accident caused due to rash and negligent driving of the driver of lorry bearing No.TN 01 Q 9570 on 09.05.2002. There is also no dispute with regard to the lorry having insurance policy. The only dispute is with regard to the assessment and award of compensation. The Tribunal while dealing with the subject matter of the impugned O.P. was pleased to grant compensation of Rs.52,994/- in favour of the appellant herein. The said amount of compensation was granted for the injury and disability caused to the appellant. The Tribunal had not granted any compensation for the death of the bull and injuries to another bull and damage caused to the bullock cart. The Tribunal in its judgment held that no post mortem report or medical certificate of the bull was filed. Ex.A6 is the certified copy of post-mortem of a bull. Ex.A7 is the certified copy of wound certificate of bull. The appellant claimed compensation of Rs.35,000/- for the death of one bull and injuries to another bull and Rs.20,000/- for the damages caused to the bullock cart. The appellant did not file any document to show the damage caused to the bullock cart, but there is oral evidence of P.W.1 on this aspect. Therefore, a sum of Rs.5,000/- can be granted towards damage caused to bullock cart. As one of the bull died and another bull suffered injuries, this Court is inclined to grant Rs.20,000/-.

6. Accordingly, this appeal is allowed in part modifying the order, dated 05.05.2004, passed by the Tribunal in M.V.O.P.No.478 of 2002, enhancing the compensation from

Rs.52,994/- to Rs.77,994/- with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit. On deposit of the compensation, the appellant-claimant is permitted to withdraw the entire amount with interest. The other terms of the order under challenge remain unaltered.

Miscellaneous Petitions pending, if any, shall stand closed.
There shall be no order as to costs.

3rd July, 2018
ssp

Dr. SHAMEEM AKTHER, J

