

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A.No.1734 OF 2004

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-claimant aggrieved by the order dated 26.04.2004 in O.P.No.210 of 2002 on the file of the Motor Accident Claims Tribunal-cum-District Judge, Nizamabad (for short 'the Tribunal').

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

3. Learned counsel for the appellant-claimant would contend that the appellant suffered multiple fractures and 60% disability. The evidence of P.W.2-doctor substantiates the same. The Tribunal has taken 60% disability and awarded compensation of Rs.81,812/- to the appellant is meagre and ultimately prayed to enhance the compensation.

4. Learned counsel for the respondent-Insurance Company would contend that P.W.2-doctor had not given treatment to the appellant-claimant. The Tribunal by taking all the facts and circumstances into consideration had granted adequate and just compensation on different heads. There are no grounds to enhance the compensation and ultimately prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the point that arises for determination is, whether the appellant-claimant is entitled for enhancement of compensation?

6. There is no dispute with regard to the appellant-claimant suffering injuries in a motor accident occurred on 07.03.2001 due to the rash and negligent driving of the driver of jeep bearing No.MTJ-7044. The only dispute is with regard to quantum of compensation.

7. While dealing with the subject matter relying on the evidence of P.W.2-doctor and the medical record produced before it, the Tribunal held that the appellant suffered with mal united fracture of clavicle, restricted movements of right shoulder, right finger, left knee and left elbow. Though there is a specific evidence of P.W.2-doctor that the appellant suffered 60% disability and also Ex.A10-disability certificate, the Tribunal held that there is a Medical Board at Nizamabad, the appellant ought to have obtained a certificate to show the disability. However, considering the injuries, medical expenses and also the loss of earnings caused to the appellant, the Tribunal granted compensation of Rs.81,812/- as detailed below:-

Disability	Rs.40,000/-
Pain and suffering	Rs.5,000/-
Medical expenses	Rs.18,812/-
Loss of earnings	Rs.18,000/-
Total	Rs.81,812/-

Thus, the Tribunal granted compensation on all heads. The compensation awarded by the Tribunal cannot be said to be meagre as contended on behalf of the appellant for the injuries suffered by him. The compensation granted by the Tribunal on all heads is just and reasonable. There are no circumstances to interfere with the appeal.

8. In the result, the appeal is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed.

No costs.

Dr. SHAMEEM AKTHER, J

Date: 27.07.2018
ssp

