

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3325 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-Insurance Company aggrieved by the order dated 07.05.2002 in O.P.No.110 of 1997 on the file of the Motor Accident Claims Tribunal-cum-District Judge, Nizamabad District (for short, 'the Tribunal').

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

3. Learned counsel for the appellant-Insurance Company would contend that there is a delay of 25 days in lodging the FIR with the police. There is no explanation therefor. The claimant failed to prove that he suffered injuries due to the rash and negligent driving of the driver of scooter bearing No.AP-25-B-8786. The Tribunal erred in fastening the liability against the appellant and ultimately prayed to set aside the order under challenge.

4. Learned counsel for the respondent-claimant would contend that the offending vehicle was identified and the driver of the scooter was charge-sheeted. There is ample evidence to prove the same. Based on the oral and documentary evidence, the Tribunal rightly held that the claimant received injuries in the accident occurred on 24.10.1996 due to the rash and negligent driving of the driver of scooter bearing No.AP-25-B-8786. There is no infirmity in the order under challenge and ultimately prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel on either side, there is no dispute with regard to the assessment and grant of compensation of Rs.1,00,000/-. The dispute is with regard to identity of the vehicle involved in the accident.

6. The evidence of P.W.1-claimant and Ex.A2-charge sheet reveals that the claimant received injuries in the accident occurred on 24.10.1996 due to the rash and negligent driving of the driver of scooter bearing No.AP-25-B-8786. The Tribunal had elaborately dealt with this matter and given its finding in the claim petition.

7. Learned counsel for the respondent-claimant relied on a decision reported in *Ravi v. Badrinarayana and others*¹, wherein the parents of the deceased were eye witnesses to the occurrence of accident; the deceased therein suffered grievous injuries; and though there is a delay of three months in registering the case against the driver of the offending vehicle, the Apex Court held that the delay of three months is not fatal and granted compensation against offending vehicle.

8. In the instant case, as the claimant was hospitalised and had taken treatment, the delay of 25 days was caused in lodging the report. There is justification in doing so. On the ground of delay, it cannot be said that the driver of the scooter bearing No.AP-25-B-8786 did not cause the subject accident. The finding of the Tribunal is based on evidence and on record. There is nothing to take a different view.

9. As far as grant of compensation is concerned, the Tribunal granted Rs.1,00,000/- with interest @ 9% per annum. It is apt to

¹ 2011 ACJ 911

refer to the decision of the Apex Court in Dharampal Vs. State Road Transport Corporation², wherein, the Apex Court awarded interest @ 7.5% per annum on the amount awarded as compensation. In the instant case, the Tribunal granted interest @ 9% per annum, which is excessive.

10. Hence, the quantum of compensation of Rs.1,00,000/- which was awarded by the Tribunal in favour of the respondent-claimant is confirmed, but the rate of interest awarded thereon is reduced from 9% per annum to 7.5% per annum. The other terms of the impugned order remain unaltered.

11. Accordingly, the appeal is partly allowed. No costs.

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

Date: 30.07.2018
ssp

Dr. SHAMEEM AKTHER, J

² MANU SC 7680 2008