

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A.No.4297 of 2004

JUDGMENT:

Aggrieved by the grant of compensation of Rs.3,79,786/- as against a claim of Rs.8,00,000/- by the Chairman, Motor Accident Claims Tribunal-cum-Additional Special Judge for SPE & ACB Cases-cum-V Additional Chief Judge, City Civil Court, Hyderabad ('the Tribunal' for brevity), vide order, dated 06.03.2002, passed in O.P.No.730 of 1999, the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for the appellant-claimant and perused the record. Though notice is served on the 2nd respondent/insurance company, there is no representation. This appeal is of the year 2004. It underwent several adjournments. Under these circumstances, this appeal can be disposed of on merits without waiting for the learned Standing Counsel for the 2nd respondent-Insurance Company to advance arguments.

3. It is not in dispute that the appellant-claimant suffered injuries in a motor accident that occurred that occurred on 15.04.1999 due to the rash and negligent driving of the driver of the Maruti Zen Car bearing registration No.AP-10-J-5001. So, the only question that arises for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation. There is specific evidence of P.W.2 (Dr.T.Prasad) that on 05.01.2000, he examined the appellant-claimant and found fracture shaft of femur,

both sides treated by surgery at Apollo Hospital and that the appellant-claimant suffered fracture femur on the right side and also fracture femur on the left side. On examination, P.W.2 found stiffness of the knees with limitation of movements and that the appellant-claimant had difficulty in squatting, cross-leg sitting and stair climbing. P.W.2 also took X-Ray of the appellant-claimant and found that fractures were fixed with plates. He assessed the disability suffered by the appellant-claimant as 40%. There is also evidence of P.W.3 (Dr.R.Jagan Mohan Rao), Senior Medical Officer at Apollo Hospital, Hyderguda to that effect. The Tribunal had taken the disability suffered by the appellant-claimant as 30%. The Tribunal can do so after analysing the medical evidence. The Tribunal had taken the monthly salary of the appellant-claimant as Rs.1,000/- per month, applied multiplier 17 to the age of the appellant-claimant (32 years) and assessed the compensation payable for 30% disability as Rs.61,200/-.

4. It is contended that the appellant-claimant was 32 years old as on the date of accident and he was the proprietor of KVB Traders dealing in Welding Rods and was earning Rs.11,000/- per month. He is an income tax assessee. The same is evident from Ex.A.7 – Income Tax returns. Considering the totality of the circumstances, this Court deems it appropriate to take the monthly income of the appellant-claimant as Rs.2,500/-, i.e., Rs.30,000/- per annum. As per the judgment of the Apex court in case between Sarla Verma v. Delhi Transport Corporation¹, the appropriate multiplier applicable to the age of the deceased (32 years) is '17'. If Rs.30,000/- is multiplied with 17, it comes to Rs.5,10,000/- of

¹ AIR 2009 SC 3104

which, 30% comes to Rs.1,53,000/-. Thus, the appellant-claimant is entitled for Rs.1,53,000/- towards disability sustained by him. The Tribunal granted an amount of Rs.3,08,586/- towards medical bills, Rs.5,000/- towards pain and suffering and Rs.5,000/- towards extra nourishment, transport, attendant charges etc, which is just and reasonable in the facts and circumstances of the case. Thus, the appellant-claimant is entitled for a total compensation of Rs.4,71,586/- (Rupees 1,53,000/- + 3,08,586/- + Rs.5,000/- + Rs.5,000/-). The Tribunal also granted interest at the rate of 9% per annum on the amount of compensation, which is also just and reasonable.

5. Accordingly, this appeal is allowed in part modifying the order, dated 06.03.2002, passed by the Tribunal, enhancing the compensation from Rs.3,79,786/- to Rs.4,71,586/- with interest at the rate of 9% per annum on the enhanced compensation from the date of petition till realisation. 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. No order as to costs.

07th June, 2018
Bvv

Dr. SHAMEEM AKTHER, J