

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3581 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.23,000/- as against a claim of Rs.2,20,000/-, vide order, dated 04.08.2005, passed in O.P.No.525 of 2000 by the Motor Accident Claims Tribunal-cum-II Additional District Judge (FTC), Nizamabad ('the Tribunal', for brevity), 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 both sides and perused the record.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant suffered grievous and simple injuries in the subject accident occurred on 31.12.1999, due to rash and negligent driving of the driver of the lorry bearing registration No.AP-11-D-4546. There are X-Rays and other medical record besides Wound Certificate to substantiate the same. However, The Tribunal granted a meagre compensation of Rs.23,000/- as against a claim of Rs.2,20,000/- and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that P.W.2- Dr.L.Ramulu is in a habit of issuing exaggerated Wound Certificates. This Court and the Tribunals at Nizamabad have

discarded his testimony and declined to act upon the certificates issued by him in many cases. In an appeal, this Court directed to prosecute P.W.2-doctor. Hence, the oral testimony and the certificate issues by P.W.2 cannot be relied upon. Further, the Tribunal justified in granting a compensation of Rs.23,000/- in favour of the appellant-claimant. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the appellant-claimant suffered injuries in the subject accident occurred on 31.12.1999, due to rash and negligent driving of the driver of the lorry bearing registration No.AP-11-D-4546. The only point that arises for determination in this appeal is whether the appellant-claimant is entitled for enhancement of compensation as claimed.

6. As per the oral evidence of P.W.1 and P.W.2 and the documentary evidence under Ex.A.4-Out Patient Ticket, Ex.A.5-Medical Certificate, Ex.A.8-X-Ray Film and Ex.A.9-Case-sheet, the appellant-claimant suffered a fracture to his right fibula and contusion on both legs in the subject accident occurred on 31.12.1999. The Tribunal, after analysing the entire evidence on record, awarded an amount of Rs.15,000/- for injuries, Rs.5,000/- towards pain and suffering, Rs.2,000/- towards transportation and extra-nourishment and Rs.1,000/- towards loss of earnings for the period of treatment undergone by the appellant-claimant. In all, the Tribunal granted a compensation of Rs.23,000/- with interest @ 9% per annum from the date of

petition till the date of deposit. Admittedly, the date of occurrence of the subject accident is 31.12.1999. The earning capabilities of the persons as on the date of subject accident were not much. Therefore, The Tribunal rightly assessed and granted the said compensation in favour of the appellant-claimant and this Court do not see any reason to vary the same. There are no circumstances to enhance the compensation. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

29th August, 2018
Bvv

Dr. SHAMEEM AKTHER, J

