

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1644 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/claimant aggrieved by the grant of compensation of Rs.1,36,000/-, as against a claim of Rs.5,00,000/-, by the learned Chairman, Motor Accident Claims Tribunal – cum – I Additional District Judge, Cuddapah (for short, “the Tribunal”) *vide* order, dated 06.05.2005, passed in M.V.O.P.No.170 of 2003.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant and the learned Standing Counsel appearing for respondent No.2/the United India Insurance Company Limited, and perused the material available on record.

3. Learned counsel for the appellant/claimant would contend that the compensation granted by the Tribunal is meagre; that the Tribunal granted an amount of Rs.5,000/- only towards pain and suffering; that the income taken to pay the compensation towards 45% disability suffered by the appellant is also low and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel appearing for respondent No.2/the United India Insurance Company Limited would contend that the Tribunal had taken all the factors into consideration and awarded just and reasonable compensation and

there are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel on either side, the only question that falls for consideration is:

“Whether the appellant/claimant is entitled for enhancement of compensation as prayed for?”

6. **POINT:-** As seen from the evidence on record, the claimant suffered the following injuries:

- “1. A lacerated injury at left side of head extended from outer contusion of left eye to left temporal region extending to left parietal region 17 cm x 2 cm in size muscle depth, fresh bleeding is present.***
- 2. A lacerated injury at lower 3” of the left leg 5 cm above the left ankle joint 7 cm x 1.5 cm in size muscle depth bone is visible possibility of fracture of bone is present.***
- 3. A lacerated injury at above the anterior to right medial malleolus 5 cm x 2 cm in size muscle depth. Fresh bleeding is present.***
- 4. Pain and swelling and tenderness of middle of left thigh is present. Swelling 4 cm x 2 cm in size.***
- 5. Pain and tenderness of right hip joint is present on movements pain is increased swelling present at right hip joint region 4 cm x 3 cm in size on pressure pain is severe in nature.”***

The same is supported by X-rays, wound certificates etc. There is also evidence of P.W.3 - Doctor that the claimant suffered 45% disability. The Tribunal took Rs.15,000/- per annum as income of the claimant, applied multiplier “17” for the age of “25” of the claimant and granted an amount of Rs.1,14,750/- towards loss of earnings. The Tribunal had granted Rs.5,000/- towards pain and suffering, another Rs.5,000/- for the simple injuries, Rs.10,000/- towards medical expenses and Rs.1,250/- towards transportation

charges and in all, granted a compensation of Rs.1,36,000/- with interest at the rate of 9% per annum from the date of petition till the date of realisation.

7. The Tribunal had not granted any compensation towards extra nourishment. On this head, an amount of Rs.15,000/- is granted. Further, the Tribunal had granted only Rs.5,000/- for pain and suffering. This can be enhanced to Rs.15,000/- from Rs.5,000/-. In all, the claimant is entitled for a compensation of Rs.1,61,000/- (Rs.1,36,000/- + Rs.15,000/- + Rs.10,000/-).

8. The Tribunal awarded interest at the rate of 9% per annum on the amount granted as compensation from the date of petition till realisation. As per the settled legal position, the appellant/claimant is entitled for interest at the rate of 7.5% per annum on the enhanced amount of compensation.

9. Accordingly, this appeal is allowed in part modifying the order, dated 06.05.2005, passed in M.V.O.P.No.170 of 2003 by the Tribunal, enhancing the compensation from Rs.1,36,000/- to Rs.1,61,000/-. The interest payable on the enhanced amount of compensation is 7.5% per annum from the date of petition till realisation. There is no change in the other conditions or directions imposed by the Tribunal. On deposit of the compensation, the appellant/claimant is permitted to withdraw the entire amount along with the accrued interest. There shall be no order as to costs.

10. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 18.07.2018
AMD



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