

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3162 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), is filed by the appellant/the National Insurance Company Limited, aggrieved by grant of compensation of Rs.3,39,134/- as against a claim of Rs.7,00,000/-, vide order, dated 19.04.2005, passed in O.P.No.1092 of 2000 by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Nizamabad ('the Tribunal', for brevity).

2. Heard the learned counsel for both sides and perused the record.

3. The learned counsel for the appellant-Insurance Company would contend that the Tribunal erroneously granted Rs.1,00,000/- towards disability. There is no evidence on record to show any disability sustained by the 1st respondent-claimant. The Tribunal also erroneously granted Rs.1,00,000/- towards loss of future earnings, without there being any evidence on record. Further, the Tribunal granted interest @ 9% from the date of petition till realisation on the amount granted as compensation, which is excessive and ultimately prayed to allow the appeal by setting aside the Order under challenge.

4. On the other hand, the learned counsel for the 1st respondent-claimant would contend that the Tribunal had taken all the relevant factors into consideration and granted just and

reasonable amount as compensation. There are no circumstances to interfere with the same and ultimately prayed to dismiss the appeal by confirming the Order under challenge.

5. It is not in dispute that the 1st respondent-claimant sustained injuries in a motor accident occurred on 14.03.1999, due to rash and negligent driving of the driver of the motor cycle bearing registration No.AP-25-E-6049. The only point that arise for consideration in this appeal is whether the compensation of Rs.3,39,134/- granted in favour of the 1st respondent-claimant by the Tribunal is liable to be reduced.

6. The Tribunal granted compensation of Rs.3,39,134/- in favour of the 1st respondent-claimant, as detailed below.

1.	Towards Disability	Rs.1,00,000/-
2.	Towards pain and suffering	Rs.75,000/-
3.	Towards medical expenses, transportation charges as per Ex.A.6 bills	Rs.64,134/-
4.	Towards loss of future earnings	Rs.1,00,000/-
TOTAL		Rs.3,39,134/-

7. P.W.3-Dr.Ranaganatham, a doctor in Yashoda Super Speciality Hospital, Malakpet, Hyderabad, deposed that the 1st respondent-claimant was admitted in the hospital on 15.03.1999 and was discharged on 21.03.1999. At the time of admission, the 1st respondent-claimant was conscious, he was speaking incoherently, he had cerebrospinal fluid coming out from his right ear, he had weakness of right half of the body, he was finding difficulty in breathing and he was very irritable. As per CT Scan report, the 1st respondent-claimant was having multiple hemorrhagic contusions in the left cerebellum, temporal parietal

region and occipital region. In addition, there was an extensive cerebral edema. The 1st respondent-claimant was having difficulty in breathing and he was incubated for some time for smooth respiration. The 1st respondent-claimant was having difficulty in writing the names, deciphering and spelling properly. P.W.3 further deposed that the 1st respondent-claimant was undergoing lot of pain, difficulty in breathing and walking, and lot of discomfort and uneasiness due to the injuries suffered by him in the subject accident.

8. The evidence of P.W.3 is corroborated with Ex.A.3-Certified Copy of Wound Certificate, Ex.C.1-Discharge Summary and other medical records, i.e., Ex.A.6-Medical Bills, Ex.A.7-Prescriptions, Ex.A.8-CT Scan Brain report and Ex.A.9-AXIAL CT Scan study of Head and brain. Ex.A.11 is the CT Scan films (8 in No.).

9. There is evidence of P.W.2-father of the 1st respondent-claimant who deposed that the 1st respondent-claimant is unable to attend to his normal work. He and his wife were assisting the 1st respondent-claimant to walk, as the 1st respondent-claimant was unable to walk independently and take bath without their assistance. The 1st respondent-claimant did not marry as he is not keeping good health after the subject accident. As per Ex.A.12, the 1st respondent-claimant was working as Record Assistant and Telephone Operator in Vijay High School and was earning Rs.3,195/- per month. Ex.A.12 is the salary certificate of the 1st respondent-claimant. All these factors go to show that the 1st respondent-claimant suffered grievous injuries in the subject accident. The Tribunal awarded an amount of Rs.1,00,000/-

towards disability, Rs.1,00,000/- towards loss of future earnings, Rs.64,134/- towards medical expenses and transportation charges, and Rs.75,000/- towards pain and suffering. In all, the Tribunal granted a compensation of Rs.3,39,134/- in favour of the 1st respondent-claimant. There is justification in granting the aforementioned compensation. Having regard to the facts and circumstances of the case, it cannot be held that grant of aforementioned compensation by the Tribunal in favour of the 1st respondent-claimant is excessive, warranting interference by this Court.

10. The Tribunal granted interest at the rate of 9% per annum on the amount granted as compensation, from the date of petition till realisation. It is apt to refer to the decision of the Apex Court in *Dharampal Vs. State Road Transport Corporation*¹, wherein, the Apex Court awarded interest at the rate of 7.5% per annum on the amount awarded as compensation. There are number of other citations, wherein, interest was awarded at the rate of 7.5% per annum on the amount awarded as compensation. In view of the same, awarding interest at the rate of 9% per annum on the amount awarded as compensation by the Tribunal is held excessive.

11. Accordingly, this appeal is allowed in part, modifying the Order, dated 19.04.2005, passed in O.P.No.1092 of 2000 by the Tribunal, only to the extent of reducing rate of interest from 9% per annum to 7.5% per annum on the amount granted as compensation (Rs.3,39,134/-) from the date of application till

¹ MANU SC 7680 2008

realisation. The other terms of the Order under challenge remain unaltered.

Miscellaneous Petitions pending, if any, shall stand closed.

No order as to costs.

Dr. SHAMEEM AKTHER, J

30th July, 2018
Bvv

