

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3473 of 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the appellant-claimant aggrieved by the order dated 22.12.2003 in O.P.No.1321 of 1999 on the file of the Motor Accident Claims Tribunal-cum-I Additional District Judge, Ranga Reddy District at L.B. Nagar, Hyderabad (for short 'the Tribunal').

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

3. Learned counsel for the appellant-claimant would contend that the appellant-injured was 12 years old at the time of accident. He suffered injuries all over the body, and there is shortening of leg and suffered 50% disability. The Tribunal granted compensation of Rs.1,12,600/- for permanent disability and for medical expenses. The Tribunal had not granted any amount on other heads and ultimately, prayed to enhance the compensation to Rs.2,00,000/- as claimed.

4. On the other hand, the learned counsel for the respondent-RTC would contend that the Tribunal is justified in granting compensation of Rs.1,12,600/- for the injuries and the consequences arose therefrom. There are no circumstances to enhance the compensation and ultimately, prayed to dismiss the appeal.

5. As per the material available on record, there is no dispute with regard to the appellant suffering injuries in a motor

accident that occurred on 06.10.1999 due to the rash and negligent driving of the driver of RTC bus bearing registration No.AP9Z 5932. The only dispute is with regard to the quantum of compensation.

6. As per the evidence of P.W.1-injured, he was 12 years old at the time of accident and he suffered a lacerated injury on medical aspect of right thigh, through out extending bone, muscle, besides more lacerated injuries and abrasions. The same is also mentioned in Ex.A5-accident register. Ex.A6-discharge card of the appellant shows that there was a fracture of right femur and also crush injury on the right thigh. P.W.2-doctor, the Orthopaedic Surgeon states that the disability suffered by the appellant was 50%. It is permanent partial disability. There is shortening of leg. Having considered the same, the Tribunal granted Rs.75,000/- towards permanent disability and Rs.25,000/- for the hospitalised treatment of the appellant for a period of three months and also granted Rs.12,605/- for purchase of medicines. It appears that the Tribunal had not granted any amount towards pain and suffering. Considering the totality of the circumstances of the case and the appellant was 12 years old and as there is shortening of leg, the Tribunal ought to have granted some more compensation. Under these circumstances, the appellant is entitled for an amount of Rs.50,000/- for pain and suffering, transportation and for disfiguration, etc.

7. Accordingly, the appeal is allowed in part modifying the order, dated 22.12.2003 passed by the Tribunal in O.P.No.1321 of 1999, enhancing the compensation from Rs.1,12,600/- to Rs.1,62,600/- with interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till the date of

deposit. On such deposit, the appellant is permitted to withdraw the enhanced compensation along with the interest accrued thereon. The other terms of the order under challenge remain unaltered.

Miscellaneous Petitions pending, if any, in this appeal shall stand closed. No costs.

Dr. SHAMEEM AKTHER, J

Date: 04.10.2018
ssp

