

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3268 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.1,60,240/- with costs and interest at 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.2,50,000/-, by the learned Chairman, Motor Accident Claims Tribunal – cum – II Additional District Judge, (Fast Track Court), Srikakulam (for short, “the Tribunal”) *vide* order, dated 04.07.2005, passed in M.V.O.P.No.95 of 2000.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant. There is no representation for the respondents inspite of service of notice. Since the appeal pertains to the year 2005, it can be disposed of basing on the material available on record.

3. Learned counsel for the appellant/claimant would contend that due to the crush injury to the right foot of the claimant, he suffered 100% disability, but the Tribunal took the disability as only 40%; that the Tribunal took the monthly income of the claimant as Rs.1,800/- and the same is on lower side; that the Tribunal awarded the total compensation of Rs.1,60,240/- as against the claim of Rs.2,50,000/-, which is meagre; that the Tribunal has also not granted compensation towards other heads and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. In view of the submissions made by the learned counsel for the appellant, the short point that falls for determination is:

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

5. **POINT:-** There is ample evidence on record to hold that the claimant suffered injuries in a road accident that occurred on 10.08.1999 due to the rash and negligent driving of the driver of Tanker Lorry bearing No.AP 31/T 4466. The only dispute is with regard to enhancement of compensation.

6. Though the claimant contended that he suffered 100% disability, as per the evidence of P.W.2 – Dr.B.Surya Rao, who treated the claimant, it is evident that the claimant suffered 40% disability. Relying on the evidence of P.W.2 and the medical record, the Tribunal rightly held that the claimant suffered 40% permanent partial disability. The finding of the Tribunal is based on the material on record. There is nothing to take a different view. The Tribunal, considering the occupation of the claimant i.e., coolie work, rightly took the monthly income of the claimant as Rs.1,800/-. The Tribunal is justified in doing so. The Tribunal granted compensation of Rs.1,38,240/- towards loss of income and future income, Rs.10,000/- towards medical expenses and Rs.12,000/- towards pain and suffering. As per the evidence on record, the claimant suffered crush injury to his right leg and the disability was 40%. In such event, the claimant had suffered lot of pain. So, the amount of Rs.12,000/- granted by the Tribunal towards pain and suffering is meagre and the same is enhanced to Rs.25,000/-. The claimant is also entitled to an amount of

Rs.10,000/- towards transportation and extra nourishment. On other heads, the Tribunal granted just compensation. In all, the claimant is entitled to an amount of Rs.1,83,240/- and the same is rounded to Rs.1,84,000/- (Rupees one lakh eighty four thousand only).

7. Accordingly, this appeal is allowed in part modifying the order, dated 04.07.2005, passed in M.V.O.P.No.95 of 2000 by the Tribunal, enhancing the compensation from Rs.1,60,240/- to Rs.1,84,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. On deposit of the compensation, the appellant/claimant is permitted to withdraw the entire amount along with the accrued interest. There is no change in the other directions given by the Tribunal. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 07.09.2018
AMD

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