

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3586 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.25,000/- with proportionate costs and interest at 9% per annum from the date of petition till realization, as against a claim of Rs.2,00,000/-, by the Chairman, Motor Accidents Claimants Tribunal-cum-II Additional District Judge (Fast Track Court) Nizamabad, (for short, "the Tribunal") *vide* order, dated 02.08.2005, passed in O.P.No.831 of 2001.

2. Heard the learned counsel for the appellant/claimant, Sri R.Venkat Rao, learned Standing Counsel for respondent No.2-National Insurance Company Limited and perused the record.

3. Learned counsel for the appellant-claimant would contend that the Tribunal granted Rs.25,000/- towards compensation though the appellant sustained one grievous injury and two simple injuries, which is very meagre and ultimately, prayed to enhance the compensation.

4. On the other hand, learned Standing Counsel for the 2nd respondent would contend that the Tribunal justified in granting compensation on different heads and there are no grounds to enhance the compensation and ultimately, prayed to dismiss the appeal.

5. In view of the above submissions, the point that arises for consideration in this appeal is:

Whether the appellant-claimant is entitled for enhancement of compensation?

6. **Point:**

There is no dispute that the petitioner suffered injuries in a road accident that occurred on 09.01.2001 due to rash and negligent driving of driver of Jeep bearing No.AP-25-T-9458. The only dispute in this appeal is with regard to the enhancement of compensation.

7. To substantiate the injuries, the appellant himself examined as P.W.1 and also examined P.Ws.2 and 3 Doctors. As per the evidence of P.W.3 and Ex.A.3-wound certificate, the petitioner suffered the following injuries:

- 1) Laceration measuring 1 x ½ x 1 on the left temporal of the head.
- 2) Swelling deformity, left thigh fracture, shaft of femur.
- 3) Abrasion of 2 x 2 right forearm.

8. The Tribunal did not rely on Ex.A.4- disability certificate issued by P.W.3 Dr.Avinash, since he is not a Member of the Medical Board to issue Disability certificate and he issued Ex.A.4 in his private capacity. Further, the Tribunal also did not rely on the evidence of P.W.3, Dr.T.Narsing Rao, who is in the habit of issuing false wound certificates with exaggerated injuries. The Tribunal rightly did not place reliance on Ex.A.4 and consequently, granted an amount of Rs.15,000/- for the injuries. The Tribunal also granted a sum of Rs.5,000/- towards pain and suffering, Rs.3,000/- towards extra-nourishment and Rs.2,000/- towards loss of earnings during the period of treatment. In all, the Tribunal granted compensation of Rs.25,000/-.

9. Admittedly, as per the record, the appellant suffered injury to right femur shaft and also undergone treatment. As per the record, the appellant was 19 years old and working as cleaner on the offending vehicle. The appellant did not work for six months in view of the fracture and other injuries. Taking into consideration of the same, an amount of Rs.9,000/- is awarded towards loss of earnings at the rate of Rs.1500/- per month for six months (Rs.1500 x 6) instead of Rs.2000/- awarded by the Tribunal. Further, the appellant is entitled for a sum of Rs.25,000/- for the injuries, instead of Rs.15,000/- awarded by the Tribunal. The Tribunal granted just compensation on other heads.

10. In the result, the appeal is partly allowed enhancing the compensation from Rs.25,000/- to Rs.42,000/- and the enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till the date of realization. The other directions given by the Tribunal hold good. On deposit, the appellant/claimant is entitled to withdraw the entire compensation amount along with accrued interest thereon.

Miscellaneous Petitions pending, if any, shall stand closed.

There shall be no order as to costs.

AUGUST 29 2018
YVL

Dr. SHAMEEM AKTHER, J

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Date:29.08.2018

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