

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.Nos.706 of 2006 & 3378 of 2008

COMMON JUDGMENT:-

Since the facts of the case, issues involved, parties and the Order under challenge in both these appeals are one and the same, both these appeals are being disposed of by this common judgment.

2. Challenging the order, dated 28.01.2006, passed in M.V.O.P.No.454 of 2004 by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Vijayawada ('the Tribunal', for brevity), the claimant preferred M.A.C.M.A.No.706 of 2006 seeking enhancement of compensation and the National Insurance Company Limited, Faridabad, Haryana State, preferred M.A.C.M.A.No.3378 of 2008 seeking to set aside the impugned Order.

3. Heard the learned counsel for both sides and perused the record. The parties hereinafter are referred to as arrayed`1 before the Tribunal.

4. The learned counsel for the appellant in MACMA No.706 of 2006 and the 1st respondent in MACMA No.3378 of 2008 (claimant) would contend that the Tribunal had granted meagre amount as compensation on different heads. No compensation was granted towards loss of past and future earnings. Grant of compensation of Rs.1,00,000/- as against a claim of Rs.5,00,000/- is meagre and ultimately prayed to enhance the compensation as claimed.

5. On the other hand, the learned Standing Counsel for the National Insurance Company Limited representing the appellant in MACMA No.3378 of 2008 and 2nd respondent in MACMA No.706 of 2006 would submit that though the claimant suffered two fractures and other simple injuries, the Tribunal granted a total compensation of Rs.1,00,000/- which is exorbitant and ultimately prayed to reduce the compensation.

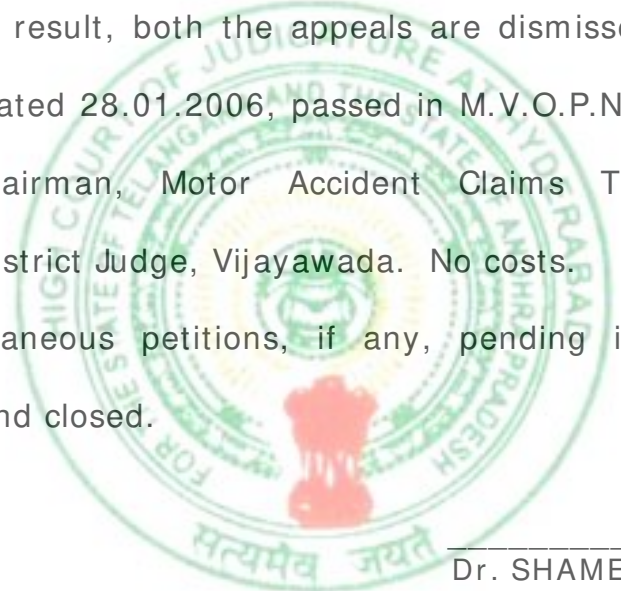
6. It is not in dispute that the claimant suffered injuries in a motor accident occurred on 02.10.2003, due to rash and negligent driving of the driver of the lorry bearing registration No.HR-38-F-2439. The only dispute is with regard to the assessment and award of compensation by the Tribunal in favour of the claimant.

7. While these appeals are pending, the sole claimant died on 15.12.2015 and her Legal Representatives are brought on record, vide order passed today in MACMA MP No.447 of 2017. As per the oral evidence of P.Ws.1 and 2 and the documentary evidence under Ex.A.4, Ex.A.9 to Ex.A.15, X-rays, bills, prescriptions, medical reports, discharge summary and case sheet, the claimant suffered fracture of both bones of right forearm, two fractures to left forearm (at distal end of radius and of Bennett's fracture dislocation) and contusion on forehead, in the subject accident. The claimant underwent operation and plates and screws were fixed. The Tribunal assessed the disability suffered by the claimant at 10%. The Tribunal, after analysing the entire evidence on record, granted an amount of

Rs.62,000/- for the injuries, fracture and disability; and, Rs.38,000/- towards medical expenses and treatment, including loss of earnings. In all, the Tribunal granted a compensation of Rs.1,00,000/-. Grant of compensation of Rs.1,00,000/- by the Tribunal in favour of the claimant is just and reasonable. The Tribunal did not leave any point unanswered. There is nothing to take a different view. There are no circumstances to interfere with the impugned order. Both the appeals lack merit and are liable to be dismissed.

8. In the result, both the appeals are dismissed, confirming the order, dated 28.01.2006, passed in M.V.O.P.No.454 of 2004 by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Vijayawada. No costs.

Miscellaneous petitions, if any, pending in both these appeals, stand closed.



Dr. SHAMEEM AKTHER, J

09th August, 2018
Bvv