

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3503 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.1,21,314/- as against a claim of Rs.4,00,000/- by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Warangal ('the Tribunal' for brevity), vide order, dated 04.03.2005, passed in O.P.No.900 of 2003, the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for the appellant-claimant and perused the record. Despite listing this matter under the caption "For Orders", there is no representation for the 2nd respondent-Insurance Company. This appeal is of the year 2005. Hence, this appeal can be disposed of on merits, basing the material available on record, without waiting for the learned Standing Counsel for the 2nd respondent-Insurance Company to advance arguments.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant suffered 60% disability in the subject accident occurred on 19.09.2002. The Tribunal ought to have followed the settled principles in assessing and awarding compensation. The Tribunal granted a meagre compensation of Rs.1,21,314/- as against a claim of

Rs.4,00,000/- and ultimately prayed to enhance the compensation as claimed.

4. In view of the above submissions, the point that arises for determination in this appeal is whether the appellant-claimant is entitled for enhancement of compensation as claimed.

5. It is not in dispute that the appellant-claimant suffered injuries in the subject accident occurred on 19.09.2002, due to rash and negligent driving of the driver of the auto bearing registration No.AP-36-V-1383. The Tribunal, relying on Ex.A.4- Copy of Wound Certificate, the oral evidence of P.W.2-doctor and the other medical record, held that the appellant-claimant sustained fracture of right knee joint and femur bone and that she underwent a surgery for correcting the same and accordingly, granted a total compensation of Rs.1,21,314/-, as detailed below.

Towards transportation expenses	Rs.500/ -
Towards loss of earnings	Rs.1,500/ -
Towards purchase of medicines	Rs.3,314/ -
Towards extra-nourishment and other incidental charges	Rs.1,000/ -
Towards pain and suffering	Rs.15,000/ -
Towards permanent disability	Rs.1,00,000/ -
TOTAL	1,21,314/ -

6. Admittedly, the appellant-claimant has not subjected herself for examination before the competent Medical Board in the District Headquarters Hospital to assess the disability sustained by her. The only evidence with regard to the appellant-claimant sustaining 60% disability in the subject accident is the oral evidence of P.W.2-doctor. As per Ex.A.4-

copy of Wound Certificate, the appellant-claimant sustained 60% disability in the subject accident. In view of the nature of injuries sustained by the appellant-claimant, it cannot be held that she sustained 60% disability in the subject accident. However, the Tribunal, taking all the relevant factors into consideration, granted a compensation of Rs.1,00,000/- towards disability. There is justification in doing so. As far as grant of compensation under the other heads is concerned, the same is just and reasonable. The subject accident occurred on 19.09.2002. The earning capabilities of the persons in those days were not much. In view of the same, it cannot be held that grant of compensation of Rs.1,21,314/- with interest @ 9% per annum from the date of petition till realisation is on lower side. There are no circumstances to enhance the compensation. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

06th September, 2018
Bvv

Dr. SHAMEEM AKTHER, J