

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A.No.773 of 2006

JUDGMENT:

Dissatisfied with the quantum of compensation of Rs.67,800/- awarded by the Motor Accident Claims Tribunal-cum-I Additional District Judge, Vizianagaram ('the Tribunal' for brevity), vide order, dated 21.12.2005, passed in O.P.No.660 of 1998, as against the total claim of Rs.2,00,000/-, 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 the learned Standing Counsel for 3rd respondent-Insurance Company.

3. Learned counsel for the appellant-claimant would contend that the compensation granted by the Tribunal is meagre. The Tribunal had not granted compensation on all heads and ultimately prayed to enhance the same as claimed.

4. On the other hand, learned counsel for the respondent-Insurance company would contend that the Tribunal had rightly assessed the compensation and there are no circumstances to enhance the same.

5. In view of the submissions made by both sides, the point for determination is, whether the appellant-claimant is entitled for enhancement of compensation as prayed for?

6. As per the evidence placed on record, the appellant suffered one grievous injury in a road accident occurred on

06.11.1997 due to rash and negligent driving of the tractor bearing No.ADM 2394 by its driver. Ex.A2-certified copy of wound certificate substantiates that the petitioner suffered grievous injury. Taking all the facts and circumstances into consideration, the Tribunal had granted compensation on all heads as mentioned hereunder:

Contribution to family	Rs.37,800/-
Pain and suffering	Rs.5,000/-
Medical bills	Rs.25,000/-
Total	Rs.67,800/-

The compensation awarded towards pain and suffering is Rs.5,000/-. As per the record, the petitioner suffered swelling of whole right thigh upper half tender greater trochanter. It is nothing but fracture of right femur. So, grant of Rs.5,000/- towards pain and suffering by the Tribunal is on lower side. Hence, the petitioner-claimant is entitled for an amount of Rs.15,000/- for pain and suffering. Compensation granted by the Tribunal on other heads needs no interference.

7. Accordingly, this appeal is allowed in part modifying the order, dated 21.12.2005, passed by the Tribunal in O.P.No.660 of 1998, i.e., enhancing the compensation from Rs.67,800/- to Rs.77,800/- with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit. On deposit of the compensation, the appellant-claimant is permitted to withdraw the entire amount along with the accrued interest. The other terms of the order under challenge remain unaltered.

Miscellaneous Petitions pending, if any, shall stand closed.

There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

26th June, 2018
ssp

