

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3731 of 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the appellant-claimant aggrieved by the order dated 29.10.2005 in O.P.No.12 of 2005 on the file of the Motor Accident Claims Tribunal-cum-II Additional District Judge, Karimnagar at Jagtial (for short 'the Tribunal').

2. Heard the learned counsel for the appellant-claimant and perused the record. There is no representation for the respondent-insurance company. This appeal pertains to the year 2005. Hence, it can be disposed of on merits basing on the material available on record.

3. Learned counsel for the appellant-claimant would contend that though the appellant suffered two grievous and three simple injuries and there is evidence of P.W.2 to that effect, the Tribunal held that there is only one grievous and three simple injuries and granted Rs.25,000/- towards pain and suffering, which is meager. The Tribunal also granted meager compensation on other heads and ultimately, prayed to enhance the same.

4. There is no dispute with regard to the injuries suffered by the appellant-claimant in a motor accident that occurred on 04.03.1999 due to the rash and negligent driving of the driver of bus bearing No.AP-15-T-414. The only dispute is with regard to quantum of compensation.

5. As per the evidence of P.W.3-doctor and the documents marked before the Tribunal, it is found that the appellant suffered the following injuries:-

1. Bleeding from both the nostrils.
2. Tenderness on the abdomen.
3. Tenderness on the right side of the chest.
4. Tenderness and swelling of right clavicle region.

Injury No.4 is grievous injury. Having considered the same, the Tribunal granted Rs.25,000/- for pain and suffering and also granted some more amount towards transport expenses, extra nourishment, loss of earnings and medical expenses. In total, the Tribunal granted Rs.35,900/- towards compensation.

6. As the accident occurred in the year 1999, the earning capabilities of the appellant in those days are required to be taken into consideration while assessing and awarding the compensation in favour of the appellant. As injury No.4 is grievous and other injuries are simple, the appellant is entitled for a sum of Rs.40,000/- on all counts instead of Rs.35,900/-.

7. In the result, the appeal is partly allowed modifying the order, dated 29.10.2005, passed by the Tribunal in O.P.No.12 of 2005 enhancing the compensation from Rs.35,900/- to Rs.40,000/- with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit. The other terms of the order under challenge remain unaltered. On such deposit, the appellant is permitted to withdraw the same along with the interest accrued thereon.

The Miscellaneous Petitions, if any, pending shall stand closed. No costs.

Dr. SHAMEEM AKTHER, J

Date: 01.10.2018
ssp