

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2343 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.20,750/- as against a claim of Rs.1,00,000/- by the Motor Accident Claims Tribunal-cum-X Additional District Judge (FTC), Guntur ('the Tribunal' for brevity), vide order, dated 29.06.2004, passed in M.V.O.P.No.98 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, the learned Standing Counsel for the 2nd respondent/Insurance Company and perused the record.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant suffered two fractures in the subject accident. He was operated for the said injuries by fixing radius bone with nail and ulna bone with a plate and screw. The Tribunal granted a meagre compensation of Rs.20,750/- with interest @ 9% per annum from the date of petition till realisation as against a claim of Rs.1,00,000/- and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent/Insurance Company would contend that the Tribunal had taken all the relevant factors into consideration and granted a compensation of Rs.20,750/- to the appellant-claimant, which is

just and reasonable and ultimately prayed to dismiss the appeal by confirming the Order under Challenge.

5. It is not in dispute that the appellant-claimant suffered injuries in the accident occurred on 25.10.2002, due to rash and negligent driving of the driver of the scooter bearing registration No.AP-20-E-4087. The only point that arises for determination in this appeal is whether the appellant-claimant is entitled for enhancement of compensation as claimed.

6. To substantiate the claim of the appellant-claimant, the appellant-claimant himself deposed as P.W.1, got examined Dr.S.S.P.Ramana as P.W.2 and got marked ExA.1-Certified copy of First Information Report in Cr.No.181 of 2002 of Pedakakani Police Station, Ex.A.2-Certified copy of charge-sheet in C.C.No.444 of 2002 on the file of VI Additional Munisif Magistrate, Guntur, relating to Cr.No.181 of 2002 of Pedakakani Police Station, Ex.A.3-Certified copy of Wound Certificate issued in respect of the injuries of P.W.1, Ex.A.4-X-ray films (six in number), Exs.A.5 to A.8-Out Patient ticket issued by the hospital. As per the evidence of P.W.2-Dr.S.S.P.Ramana, the appellant-claimant was admitted in hospital on 25.10.2002 with fracture of both bones of his left fore arm; a surgery was conducted on 14.11.2002 by fixing radius bone with nail and ulna bone with a plate and screw; and, the appellant-claimant was discharged on 30.11.2002. The medical record substantiates the same. P.W.2 assessed the disability sustained by the appellant-claimant as 25%. The Tribunal took the notional income of the deceased as Rs.15,000/- per annum, took the disability suffered by him as 25%, applied multiplier '5' to the age

of the deceased and granted an amount of Rs.18,750/- towards loss of income. The Tribunal further granted an amount of Rs.2,000/- towards treatment. In all, the Tribunal granted a compensation of Rs.20,750/- with interest @ 9% per annum from the date of petition till realisation. Admittedly, the Tribunal had not granted any amount towards injuries, pain and suffering, extra nourishment and other incidental charges. Hence, this Court deems it appropriate to grant an amount of Rs.10,000/- towards injuries, pain and suffering, and Rs.3,000/- towards extra nourishment and other incidental charges. The Tribunal justified in granting an amount of Rs.18,750/- towards loss of income and Rs.2,000/- towards treatment. Thus, the appellant-claimant is entitled for a total compensation of Rs.33,750/-, as detailed below.

1.	Towards loss of income (as determined by the Tribunal)	Rs.18,750/ -
2.	Towards treatment (as determined by the Tribunal)	Rs.2,000/ -
3.	Towards injuries, pain and suffering	Rs.10,000/ -
4.	Towards extra-nourishment and other incidental charges	Rs.3,000/ -
TOTAL		Rs.33,750/ -

The Tribunal granted interest @ 9% per annum on the amount granted as compensation from the date of petition till realisation. This Court deems it appropriate to award interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation.

7. Accordingly, this appeal is allowed in part, modifying the order, dated 29.06.2004, passed in M.V.O.P.No.98 of 2003 by the Tribunal, enhancing the compensation from Rs.20,750/- to Rs.33,750/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till

realisation. On deposit of the enhanced compensation, the appellant-claimant is permitted to withdraw the entire amount along with the interest accrued thereon. 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

20th August, 2018
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