

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1049 of 2007

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988, by the appellants-claimants aggrieved by the order dated 19.10.2006 in O.P.No.359 of 2004 on the file of the Motor Accident Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Adilabad.

2. Heard the learned counsel for appellants-claimants, the learned Standing Counsel for the respondent-Insurance Company and perused the record.

3. Learned counsel for the appellants-claimants would submit that claimant No.1 suffered grievous injuries in a road accident. Thereafter, he died. His mother came on record as claimant No.2. The Tribunal having analysed the evidence granted compensation of Rs.19,970/- on different heads with interest @ 7.5% per annum, which is meagre and ultimately prayed to enhance the same as claimed.

4. Learned counsel for the respondent-Insurance Company would submit that the Tribunal had taken all the facts and circumstances into consideration and awarded just and reasonable compensation. As the injured-claimant No.1 died, there are no circumstances to enhance the compensation.

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

6. As per the evidence placed on record and in view of the doctor's evidence, who deposed as P.W.3 that on 15.01.2003, claimant No.1 was admitted in his hospital with fracture of right femur, fracture of right wrist, fracture of both bones left leg and abrasion injuries over right leg and left thigh. All fractures are grievous. He performed surgery for injury No.1 on 16.01.2003 and he has done emergency debriment and external fixation. Again on 21.01.2003 he performed another surgery for the fracture of both bones left leg, internal lock and rod fixation was done and the patient was discharged from his hospital on 03.02.2003. He advised the patient to take three months' bed rest. He admitted the genuiness of Ex.A3-copy of medical certificate. Ex.A5 is the final bill dated 03.02.2003 for Rs.13,000/-. Ex.A7 is the discharge card of his hospital dated 23.04.2004. It is corroborated by the evidence of P.W.3 and also corroborated by other material evidence on record. The compensation granted by the Tribunal is mentioned hereunder:

Loss of earnings	Rs.3,000/-
Extra nourishment	Rs.1,000/-
Treatment charges	Rs.12,000/-
For medical bills	Rs.2,970/-
Transportation	Rs.1,000/-
Total	Rs.19,970/ -

7. As seen from the assessment made by the Tribunal, the Tribunal granted only an amount of Rs.12,000/- + Rs.2,970/- towards medical expenses. There are bills and vouchers to show that claimant No.1 had incurred more expenses. So, an amount of Rs.20,000/- can be granted towards medical expenses. The Tribunal had granted Rs.3,000/- towards loss of earnings for a period of two months at Rs.1,500/- per month. Claimant No.1 suffered multiple fractures. In such circumstances, it is quite natural for the injured that he would not have discharged his functions for about one year. On that score, an amount of Rs.18,000/- can be granted towards loss of earnings. Certainly, claimant No.2 incurred expenses for transportation, etc. Hence, it can be enhanced from Rs.1,000/- to Rs.5,000/- For extra nourishment, the Tribunal awarded Rs.1,000/-. In the circumstances of the case, it is enhanced to Rs.5,000/-. Claimant No.2-mother had rendered services during the life time of the deceased-claimant No.1, particularly when the deceased suffered injuries to both his legs and also to hand. For that, she can be granted an amount of Rs.12,000/- at the Rs.1,000/- per month. In all, the appellants are entitled for compensation as mentioned hereunder:

Loss of earnings	Rs.18,000/-
Extra nourishment	Rs.5,000/-
Treatment charges	Rs.20,000/-
For medical bills	
Transportation charges	Rs.5,000/-
Services rendered by mother of claimant No.1	Rs.12,000/-
Total	Rs.60,000/-

8. Accordingly, this appeal is allowed in part modifying the order, dated 19.10.2006, passed by the Tribunal in O.P.No.359 of 2004, enhancing the compensation from Rs.19,970/- to Rs.60,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit. On deposit of the compensation, the appellant-claimant No.2 is permitted to withdraw the entire amount along with the accrued interest.

Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

Dr. SHAMEEM AKTHER, J

25th June, 2018
ssp