

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

C.M.A.No.4420 OF 2004

JUDGMENT:

This appeal is filed by the appellant-claimant under Section 173 of the M.V. Act, aggrieved by the order, dated 16.07.2004, in O.P.No.227 of 1999, passed by the Motor Accident Claims Tribunal-cum-I Addl. District Judge, Ranga Reddy District at L.B. Nagar, for enhancement of compensation.

2. Heard the learned counsel for the appellant, the learned standing counsel for the Insurance Company and perused the record.

3. Learned counsel for the appellant would submit that the appellant suffered crush injuries while working as cleaner of the lorry bearing No. AHT 8520. The Tribunal granted compensation of Rs.22,000/- only against claim of Rs.75,000/-, which is meagre and ultimately, prayed to enhance the compensation.

4. On the other hand, learned standing counsel for the Insurance Company would submit that the Tribunal had taken into consideration the nature of injuries suffered by the appellant and awarded compensation of Rs.22,000/-, which is just and reasonable. There are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. The appeal against respondent No.1-owner of the vehicle was dismissed on 08.02.2016 for default. However, dismissal of the appeal for default against respondent No.1-owner of the vehicle is of no consequence

to decide the quantum of compensation, in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**¹, wherein it is held that:

"If the Claims Tribunal records a finding that the accident had taken place due to the rash or negligent driving of the driver of the motor vehicle and if such finding is not challenged either by the Insurance Company or by the owner of the motor vehicle, the question that arises in appeal filed against the orders of the Tribunal by the claimants is only with regard to the determination of just, fair and reasonable quantum of compensation and therefore there cannot be any bar to decide the quantum of compensation against the Insurance Company even in the absence of owner of the vehicle to the extent of the statutory liability of the Insurance Company. But the quantum of compensation cannot be decided over and above the statutory liability of the Insurance Company in the absence of the owners, but the question of the statutory liability of the Insurance Company survives for consideration at the appellate stage."

6. There is no dispute with regard to appellant working as cleaner of the lorry bearing No. AHT 8520 and suffering injuries in the accident which occurred on 09.12.1996. While determining the compensation, the Tribunal had taken the earning capacity and medical expenses during relevant period to assess and award compensation. As per the evidence on record, the appellant suffered crush injury to right ankle and he was treated by applying POP in Khanapuram National Hospital. He was admitted in hospital on 09.12.1996 and discharged on 12.12.1996. Taking the injury and treatment into consideration, the Tribunal granted compensation of Rs.20,000/- towards injury and Rs.2,000/- towards expenses incurred for treatment, which is just and reasonable. There are no circumstances to interfere with

¹ 2001(1) ALT 495 (D.B.)

the same. Therefore, the appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, the Appeal is dismissed confirming the order, dated 16.07.2004, in O.P.No.227 of 1999, passed by the Motor Accident Claims Tribunal-cum-I Addl. District Judge, Ranga Reddy District at L.B. Nagar. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 12-06-2018

Hsd

