

THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M. A. C. M. A. No. 1487 of 2009

JUDGMENT:

This appeal is arising out of the order dated 29.03.2005 passed in O.P.No.536 of 2003 by the Chairman (V Additional District Judge), Motor Accidents Claims Tribunal, Guntur. The appellant-petitioner filed the above O.P. under Section 163A of the Motor Vehicles Act, 1988, claiming compensation of Rs.1,20,000/- against respondents 1 and 2, on account of the injuries suffered by him due to his falling down from the 1st respondent's Auto bearing No. No.AP-07X-5222 while he was traveling in the said auto on 07.05.2003, at about 7:00 PM, from Anantavarappadu village to Guntur, and the auto catapulted near Ananthavarappadu Road bridge because of the rash and negligent driving by its driver. The petitioner suffered grievous injuries and fracture to his right thigh. He was admitted in Government General Hospital, Guntur for treatment.

2. Respondent No.1-owner of the crime auto remained exparte. Respondent No.2, insurance company, filed counter denying the manner in which the accident occurred and also contested the quantum of compensation claimed as highly excessive.

3. The Tribunal, on consideration of the evidence of witnesses PWs.1 and 2, and the documents Exs.A1 to A5, and Exs.X1 to X4, has awarded compensation of Rs.31,812/- with

interest at 6% per annum, against respondents 1 and 2. Aggrieved by the quantum of compensation, the petitioner filed this appeal seeking enhancement of compensation.

4. Heard the arguments of learned counsel for the appellant-petitioner, and learned counsel for respondent No.2 insurance company.

5. The evidence of PW.1-petitioner/injured reveals that he received one grievous injury and one simple injury. The Medical Officer was examined as PW.2, and he deposed that he examined the petitioner and found two injuries. One injury is a laceration about 3 x 1½ cm over the bridge of the nose, and the other is a deformative swelling over the right lower limb, above the knee. He further deposed that PW.1 was admitted in the hospital on 20.05.2003, and a K-nail was inserted in the femur, and he was discharged on 07.06.2003. According to PW.2, the petitioner has sustained 20% disability due to restriction of bending knee joint.

6. Admittedly, the petitioner was a rickshaw puller by profession. He was admitted in the hospital as he suffered one grievous and one simple injury and he was treated as inpatient for one month in the hospital. The Tribunal has awarded Rs.5,000/- for grievous injury and Rs.1,000/- for simple injury towards medical expenses. The grievance of the petitioner is that the Tribunal, while calculating the compensation, reduced the percentage of disability from 20% to 8% without any basis.

7. In this regard, the learned counsel for the 2nd respondent insurance company submitted that an amount of Rs.50,000/- may be awarded in this case, without going into the merits of this petition.

8. In the light of the facts and circumstances of the case, and in view of the submission of the learned counsel for the 2nd respondent, the interest of justice would be met if the compensation is enhanced. Hence, the compensation is enhanced from Rs.31,812/- to Rs.50,000/- with interest at 6% per annum from the date of petition till realization.

9. **IN THE RESULT**, the appeal is partly allowed by enhancing the compensation of Rs.31,812/- to Rs.50,000/- with proportionate costs and interest at 6% per annum from the date of petition till realisation. The respondents are directed to deposit the amount of compensation within one month from the date of receipt of a copy of the order and on such deposit the petitioner is permitted to withdraw the same. Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

11th July, 2018
JR / KSM

THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



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