

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2658 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 05.05.2005 in O.P.No.659 of 2002 on the file of the Motor Accident Claims Tribunal-cum-District Judge, Nizamabad (for short 'the Tribunal').

2. Heard the learned counsel for appellant-claimant, the learned counsel for respondent No.1-Insurance Company and perused the record. The appeal against respondent No.2 was dismissed for default on 05.01.2012.

3. Learned counsel for the appellant-claimant would contend that the appellant suffered grievous injuries and permanent disability and incurred huge medical expenses. The Tribunal granted a meagre compensation of Rs.56,296/- against the claim of Rs.1,00,000/- and ultimately prayed to enhance the same.

4. On the other hand, learned counsel for 1st respondent-Insurance company would contend that the Tribunal had granted just and reasonable compensation. No doctor was examined. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the point that arises for determination is, whether the appellant-claimant is entitled for enhancement of compensation?

6. As per the evidence placed on record, the appellant suffered injury over his right shoulder extending till scapula. As per MLC X-ray No.45 dated 17.01.2002, there was fracture of lateral edge of right scapula, which is grievous in nature; and also a lacerated injury adjacent to right eye and swelling of upper right eye lid. In total, the appellant suffered three injuries, one is grievous and other two are simple. Though the doctor was not examined, there is ample medical record to establish that those injuries are suffered by the appellant in a road accident occurred on 16.01.2002 due to the rash and negligent driving of the driver of lorry bearing No.AP 31T 4668. Taking these injuries into consideration, the Tribunal granted compensation of Rs.30,000/- for disability, Rs.5,000/- for pain and suffering and Rs.21,296/- for medical expenses.

7. As per the record, no amount was granted towards loss of earnings, transportation and extra nourishment, etc. Hence, an amount of Rs.10,000/- is granted under the said heads. In all, the appellant is entitled for a compensation of Rs.66,296/- (Rs.56,296/- + Rs.10,000/-)

8. In the result, the appeal is partly allowed modifying the order, dated 05.05.2005, passed by the Tribunal in O.P.No.659 of 2002 enhancing the compensation from Rs.56,296/- to Rs.66,296/- 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 deposit of enhanced compensation, the

appellant is permitted to withdraw the entire amount along with interest accrued thereon.

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

Dr. SHAMEEM AKTHER, J

Date: 07.08.2018
ssp

