

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.2015 OF 2006

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 18.05.2006 in O.P.No.511 of 2004 on the file of the Motor Accident Claims Tribunal-cum-IV Additional District Judge, (II Fast Track Court), Nalgonda (for short, 'the Tribunal').

2. Heard the learned counsel for the appellant-claimant, learned counsel for the respondent-Insurance Company and perused the record.

3. Learned counsel for the appellant-claimant would contend that the appellant sustained grievous injury, consequent to which there is permanent disability. The Tribunal granted only Rs.42,000/-, which is quite unreasonable and prayed to enhance the compensation on all heads.

4. On the other hand, learned counsel appearing for the respondent-Insurance company would contend that the Tribunal had taken into consideration all the aspects and granted compensation on all heads, which is just and reasonable. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal.

5. There is no dispute with regard to the appellant suffering injuries in a road accident caused by auto bearing No.AP24T 9158 on 14.06.2004. As per the oral and documentary evidence, the appellant suffered fracture to left Femur Grade-IV. Ex.A7 X-ray films and Ex.A8 case sheet prove the same. P.Ws.2 and 3 doctors have also deposed that the appellant suffered from the aforementioned injury. There is also evidence that the appellant underwent surgery for the said fracture.

Some dynamic hip screw and plate were fixed in that process. Ex.A5 disability certificate was issued by the medical board to disclose that the appellant suffered 5% disability. P.W.2, one of the members of the medical board, spoke about the correctness of Ex.A5 disability certificate. Taking all the facts and circumstances into consideration, the Tribunal granted compensation as mentioned herein:

Pain and suffering	Rs.15,000/-
Medical expenses, attendance charges, transportation and extra nourishment	Rs.12,000/-
5% disability	Rs.5,000/-
Loss of expectation of life, loss of pleasure, amenities and loss of earnings	Rs.10,000/-
Total	Rs.42,000/-

In total, the Tribunal granted compensation of Rs.42,000/- with interest @ 8% per annum from the date of petition till the date of award and thereafter @ 6% per annum till the date of deposit.

6. The Tribunal granted adequate compensation on different heads, but it did not grant adequate compensation for 5% disability. It ought to have granted atleast Rs.10,000/- for the said disability. For loss of earnings during surgery, specified amount ought to have been granted by the Tribunal. So, an amount of Rs.10,000/- is granted in addition to the amount granted in this category. In all, the appellant is entitled for compensation of Rs.57,000/-.

7. Accordingly, this appeal is allowed in part modifying the order, dated 18.05.2006, passed by the Tribunal in O.P.No.511 of 2004, enhancing the compensation from Rs.42,000/- to Rs.57,000/-. The enhanced compensation carries interest @ 7.5% per annum from the date of petition till the date of deposit. On deposit of the compensation,

the appellant-claimant is permitted to withdraw the entire amount along with the accrued interest. The other terms of the order under challenge remain unaltered.

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

Dr. SHAMEEM AKTHER, J

Date: 21.06.2018
ssp

