

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A.No.2259 of 2004

JUDGMENT:

Aggrieved by the grant of compensation of Rs.96,768/- as against a claim of Rs.3,00,000/- by the Commissioner for Workmens' Compensation and Assistant Commissioner of Labour, Nizamabad, vide order, dated 28.10.2003, passed in W.C.No.205 of 1997 NF, the applicant preferred this appeal under Section 30 of the Workmens' Compensation Act, 1923, seeking enhancement of compensation.

2. Heard the learned counsel for the appellant-applicant, the learned Standing Counsel for the United India Insurance Company Limited representing the 2nd respondent and perused the record.

3. The learned counsel for the appellant-applicant would submit that the appellant-applicant was employed under respondent No.1/owner of the lorry bearing registration No.AP-09-U-5178. Respondent No.2 is the insurer of the said lorry. The appellant-applicant suffered grievous injury in the motor accident that occurred on 05.09.1996 and filed an application before the Assistant Commissioner of Labour claiming compensation of Rs.3,00,000/-. There is evidence to show that the appellant-applicant suffered 40% disability and 50% loss of earning capacity. The Assistant Commissioner of Labour had assessed the loss of earnings of the appellant-applicant as 40% and had taken the monthly wage of the appellant-applicant as Rs.1,800/-, which is meagre. Further, no

interest was awarded on the amount granted as compensation and ultimately prayed to enhance the compensation.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would submit that the Assistant Commissioner of Labour had taken all the factors into consideration and awarded just and reasonable amount towards compensation. There are no circumstances to interfere with the same ultimately prayed to dismiss the appeal.

5. It is not in dispute that the appellant-applicant suffered injuries in the motor accident that occurred on 05.09.1996 due to the rash and negligent driving of the driver of the lorry bearing registration No.AP-09-U-5178 belonging to the 1st respondent in the course of his employment under R-1. So, the only question that arises for consideration in this appeal is whether the appellant-applicant is entitled for enhancement of compensation as prayed.

6. As per the evidence on record, the appellant-applicant suffered 40% disability. The Assistant Commissioner of Labour, having gone through the medical record and oral evidence, had taken the monthly wage of the appellant-applicant as Rs.1,800/-, age as 20 years, loss of earning capacity as 40% and by applying the relevant age factor 224, granted a total compensation of Rs.96,768/-. The assessment and calculation of the compensation by the Assistant Commissioner of Labour is based on the regulations governing at that time and as such, rightly taken 40% as loss of earning capacity. There is no infirmity in the same. However, the learned Assistant Commissioner of Labour did not award interest on

the amount granted as compensation. Hence, this Court deems it appropriate to award interest at the rate of 12% per annum on the amount granted as compensation (Rs.96,768/-) from the date of application till date of deposit.

7. Accordingly, this appeal is allowed in part modifying the order, dated 28.10.2003, passed by the Commissioner for Workmens' Compensation and Assistant Commissioner of Labour, Nizamabad, only to the extent of awarding interest at the rate of 12% per annum on the amount granted as compensation (Rs.96,768/-) from the date of application till date of deposit. The other terms of the Order under challenge remain unaltered. On deposit of the compensation, the appellant-applicant is permitted to withdraw the entire amount with interest.

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

08th June, 2018
Bvv

Dr. SHAMEEM AKTHER, J