

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER
CIVIL MISCELLANEOUS APPEAL No.2502 OF 2004

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/the New India Assurance Company Limited, aggrieved by the grant of compensation of Rs.60,000/- as against a claim of Rs.1,00,000/- to respondent No.1/claimant, by the learned Chairman, Motor Accident Claims Tribunal – cum – the Additional District Judge, Nizamabad (for short, “the Tribunal”) *vide* order, dated 14.07.2003, passed in O.P.No.179 of 1999.

2. Heard the submissions of the learned Standing Counsel appearing for the New India Assurance Company Limited representing the appellant and the learned counsel for respondent No.1/claimant, and perused the material on record.

3. Learned Standing Counsel for the New India Assurance Company Limited representing the appellant would contend that there was no coverage of risk to the inmates travelling in the jeep bearing No.AP-1-C-3351; that the Tribunal had granted excessive compensation to respondent No.1/claimant and ultimately, prayed to set aside the impugned order and allow the appeal as prayed for.

4. On the other hand, learned counsel for respondent No.1/claimant would contend that connected C.M.A.No.2551 of 2004 filed by the appellant herein was dismissed by this Court on 19.09.2014; that the appellant has not taken any specific plea in the O.P. with regard to the liability of the insurer and therefore, at this stage, it cannot be adjudged; that the Tribunal had taken all

the factors into consideration and granted just and reasonable compensation; that there are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the following points come up for determination:

“1. Whether the grant of compensation of Rs.60,000/- is liable to be reduced? and

2. Whether the claim against the appellant/Insurance Company is liable to be set aside?”

6. **POINT Nos.1 and 2:-**

As per the evidence on record, an amount of Rs.60,000/- was granted in favour of respondent No.1 against the claim of Rs.1,00,000/- for the injuries suffered by him in a motor accident that occurred on 13.02.1999 due to the rash and negligent driving of the jeep bearing No.AP-1-C-3351 by its driver. Respondent No.1/claimant sustained fracture to his left leg femur and injuries to other parts of the body. There is also medical record to show that the claimant suffered the aforementioned injuries. The Tribunal had taken all the factors into consideration and rightly assessed and granted an amount of Rs.50,000/- towards compensation for the fracture of left femur shaft sustained by the claimant, an amount of Rs.5,000/- towards medicines and extra nourishment and an amount of Rs.5,000/- towards past and future pain and sufferings and in total, Rs.60,000/-, which is just and reasonable. Even as per the pleadings in the O.P., there is no specific mention of violation of policy of insurance. Further, connected C.M.A.No.2551 of 2004 filed by the appellant herein was

dismissed by this Court on 19.09.2014. In view of these circumstances, the impugned order is liable to be confirmed. There are no circumstances to take a different view. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed. There shall be no order as to costs.

8. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

Date : 23.07.2018
AMD

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