

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

C.M.A.No.1683 OF 2004

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/claimant aggrieved by the grant of compensation of Rs.1,17,600/- as against a claim of Rs.4,00,000/- by the learned Chairman, Motor Accident Claims Tribunal – cum - District Judge, Visakhapatnam (for short, “the Tribunal”) *vide* order, dated 06.09.1996, passed in M.O.P.No.335 of 1992.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant. There is no representation on behalf of respondent No.1. The claim against respondent Nos.2 and 3 was dismissed for default.

3. Learned counsel for the appellant/claimant would contend that the claimant claimed a compensation of Rs.4,00,000/- for the injuries sustained by him in a motor accident that took place on 12.11.1991 due to the rash and negligent driving of the driver of Car bearing No.AAV-2230 by its driver, but the Tribunal granted a compensation of Rs.1,17,600/- only with interest at 12% per annum from the date of petition till the date of payment and proportionate costs; that the claimant suffered five grievous injuries, but the Tribunal granted meagre amount for the injuries and pain and suffering; that the Tribunal had not granted any compensation for transportation; that the disability suffered by the claimant was 30%, but the Tribunal took the same as 15% only and awarded meagre amount on that and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. In view of the submissions made by the learned counsel for the appellant/claimant, the short point that falls for determination is:

“Whether the appellant/claimant is entitled for enhancement of compensation as prayed?”

5. **POINT:-** It is pertinent to note that the claim against respondent No.2 was dismissed for default *vide* order, dated 30.10.2003, and the claim against respondent No.3 was dismissed for default *vide* order, dated 08.02.2016, but till date, no steps are taken to get the dismissal orders set aside. Further, it is apt to state that the date of occurrence of the accident was 12.11.1991. Certainly, there is record to show that the claimant suffered the following grievous injuries:

- “1) commuted fracture shaft of left femur at the junction of upper and middle 1/3rds;***
- 2) Fracture of alna of sacrum on the left side;***
- 3) Fracture outer end of right clavicle;***
- 4) Fractures spinuous process of cervical vertebra;***
- 5) Fracture ribs, 2nd, 3rd and 4th on the right side with hemo-thorax.”***

The Tribunal has considered the same relying on the oral evidence, X-rays and other medical record. Further, it has taken into consideration the evidence of P.W.2 – Doctor with regard to the disability suffered by the claimant in the accident and assessed the compensation at Rs.1,17,600/- in total i.e., Rs.10,000/- towards damages, Rs.57,600/- towards loss of future earnings, Rs.20,000/- towards pain and suffering, Rs.10,000/- towards loss of amenities and Rs.20,000/- towards treatment, medicines and extra nourishment. The grant of Rs.1,17,600/- is just and

reasonable in view of the given circumstances and also the date of occurrence of the accident. In the year 1991, the capacity to make money was less when compared to the present days. The Tribunal has rightly taken the earnings of the claimant and awarded the compensation. The medical expenses and other expenses were also considered by the Tribunal. In view of these circumstances, there are no merits to enhance the compensation and as such, it cannot be held that the compensation awarded by the Tribunal is meagre. There is nothing to interfere with the impugned judgment of the Tribunal. Hence, the appeal is devoid of merit and is liable to be dismissed.

6. Accordingly, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

7. Miscellaneous petitions pending, if any, in this Civil Miscellaneous Appeal shall stand closed.



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Date : 18.07.2018
AMD

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