

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2200 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.1,21,000/- as against a claim of Rs.1,75,000/- by the Chairman, Motor Accident Claims Tribunal-cum-IX Additional District Judge, Guntur ('the Tribunal', for brevity), vide order, dated 15.04.2005, passed in O.P.No.46 of 2002, the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for both the sides and perused the record.

3. The learned counsel for the appellant-claimant would contend that the Tribunal had not taken the disability suffered by the appellant-claimant at 40%. Though the appellant-claimant was 40 years old as on the date of accident, the Tribunal multiplier '16'. The Tribunal did not grant just compensation on the other heads and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that the Tribunal had taken all the relevant factors into consideration and granted just and reasonable amount as compensation. There are no circumstances to enhance the same and ultimately

prayed to dismiss the appeal by confirming the Order under challenge.

5. It is not in dispute that the appellant-claimant suffered injuries in a motor accident occurred on 29.08.2001, due to rash and negligent driving of the driver of the Scooter bearing registration No.AP-07-E-6161. So, the only point that arises for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation as claimed.

6. As per Ex.A.3-Certified Copy of Wound Certificate, the appellant-claimant suffered severe tenderness over right leg and X-ray revealed fracture in both bones of right leg at lower region. As per Ex.X.1-Case sheet of the appellant-claimant (P.W.1) maintained by Government General Hospital, Guntur, the appellant-claimant was admitted in Government General Hospital, Guntur, on 30.08.2001 with severe tenderness lower right leg and X-ray revealed fracture of both bones. P.W.2, the Doctor who treated the appellant-claimant, deposed that the appellant-claimant was admitted at Government General Hospital, Guntur, on 30.08.2001 with Grade-I Compound Fracture of both bones of right leg and comminuted fracture of lower third. The evidence of P.W.1 is that the appellant-claimant suffered 40% disability. The Tribunal took the age of the appellant-claimant as 40 years, income as Rs.15,000/- and granted an amount of Rs.96,000/- towards compensation for disability and loss of future income. Admittedly, the appellant-claimant was not examined by a competent Medical Board to

assess the disability suffered by him. There is no certificate issued by any authority to show that the appellant-claimant suffered 40% disability. The accident occurred on 29.08.2001. The income and expenditure prevailing at that time is required to be taken into consideration to assess the compensation. The Tribunal also granted Rs.10,000/- towards medical expenses, Rs.10,000/- towards pain and suffering and Rs.5,000/- towards loss of amenities. In all, the Tribunal granted a compensation of Rs.1,21,000/- with interest @ 9% per annum from the date of petition till the date of deposit. In the absence of any certificate from the competent Medical Board to believe that the appellant-claimant suffered 40% disability, the Tribunal is justified in granting an amount of Rs.96,000/- towards compensation for the disability and loss of future income. The Tribunal also granted just and reasonable amount on the other conventional heads. There is no infirmity in the impugned order. There are no circumstances to interfere with the same. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

There shall be no order as to costs.

18th July, 2018
Bvv

Dr. SHAMEEM AKTHER, J