

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3752 of 2005

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 15.06.2005 in O.P.No.607 of 2003 on the file of the Motor Accident Claims Tribunal-cum-XII Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad (for short 'the Tribunal').

2. Heard the learned counsel for the appellant-claimant and perused the record.

3. The appeal against 1st respondent was dismissed for default on 06.01.2012. There is no representation for the 2nd respondent-Insurance Company. This appeal pertains to the year 2005. Hence, it can be disposed of on merits basing on the material available on record.

4. Learned counsel for the appellant-claimant would contend that the appellant suffered multiple fractures to his leg and for the said injuries he was bedridden for a considerable period. There is also evidence of P.W.2-doctor to establish that the appellant suffered 30% disability. The Tribunal granted compensation of Rs.60,000/-, which is meagre and ultimately, prayed to enhance the compensation.

5. In view of the submissions made by the learned counsel for the appellant, the only point that arises for determination is, whether the appellant is entitled for enhancement of compensation?

6. There is record to establish that the appellant suffered grievous and simple injuries in a road accident that occurred on

06.02.2003 due to the rash and negligent driving of the driver of lorry bearing registration No.AP-28T-9215.

7. As per the evidence on record, the appellant is 35 years old. He examined himself as P.W.1 and also examined P.W.2-doctor and got marked Exs.A1 to A13. Ex.A4-discharge summary shows that the appellant was admitted in Nightingale Hospital on 07.02.2003 and was discharged there from after taking conservative treatment. Ex.A3-certified copy of MLC report shows that there was laceration over the left third toe. Ex.A5-O.P. card shows that the appellant had taken conservative treatment. Ex.A8-X-ray shows that there was a displaced fracture of middle third of tibia and fabula and swelling of soft tissue. Ex.A9-bunch of X-ray films and Ex.A12-X-ray reports show the healing of fracture. P.W.2 deposed about the treatment taken by P.W.1. By examining P.W.2-doctor and producing the medical record, the appellant established that he suffered fracture of tibia and fabula. The Tribunal granted compensation as detailed below:-

Loss of income	Rs.5,000/-
Medical charges	Rs.16,269/-
Extra nourishment	Rs.3,000/-
Pain and suffering	Rs.10,000/-
Loss of future earning power	Rs.25,500/-
Total	Rs.59,769/- rounded of to Rs.60,000/ -

8. As seen from the material available on record, the appellant said to have suffered 30% disability. He was not examined by the Medical Board. However, the Tribunal took his disability at 10% and granted some amount towards loss of future

earnings. As the accident occurred in the year 2003, the appellant is entitled for some more amount towards compensation.

9. In the circumstances of the case, the appellant is entitled for Rs.10,000/- towards loss of earnings and Rs.5,000/- towards pain and suffering. In all, the appellant is entitled for compensation of Rs.75,000/- (Rs.60,000/- + Rs.15,000/-).

10. As regards rate of interest, it is apt to refer to the decision of the Apex Court in Dharampal Vs. State Road Transport Corporation¹, wherein, the Apex Court awarded interest @ 7.5% per annum on the amount awarded as compensation. In view of the same, awarding interest @ 6% per annum on the amount awarded as compensation by the Tribunal is on lower side.

11. Accordingly, the appeal is allowed in part modifying the order, dated 15.06.2005 passed by the Tribunal in O.P.No.607 of 2003, enhancing the compensation from Rs.60,000/- to Rs.75,000/- with interest @ 7.5% per annum on the entire amount of compensation from the date of petition till the date of deposit. The other terms of the order under challenge remain unaltered. On such deposit, the appellant-claimant is permitted to withdraw the entire enhanced amount along with the interest accrued thereon.

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

Dr. SHAMEEM AKTHER, J

Date: 01.10.2018
ssp

¹ MANU SC 7680 2008