

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

M.A.C.M.A.NO.2512 OF 2006

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the petitioner-claimant in O.P.No.15 of 2004 on the file of the XIV Additional Chief Judge (FTC), City Civil Court, Hyderabad, aggrieved by the order dated 05.04.2006, whereby the Court below granted compensation of Rs.99,000/- with proportionate costs and interest at the rate of 7.5% per annum from 05.01.2006 till the date of realisation, in favour of the claimant-petitioner. Further, the respondents herein were directed to pay the amount jointly and severally, for the injuries suffered by the petitioner, in a motor accident, which occurred on 09.10.2003 due to alleged rash and negligent driving of the driver of the offending vehicle, i.e., DCM Van bearing No.AP-9-T-4526.

2. Heard the counsel for the appellant. Perused the record.

3. Though the O.P. is of the year 2004, there is no representation for the respondent-insurer. Under this scenario, the appeal can be disposed of on merits basing on evidence available on record.

4. The parties hereinafter are referred to as arrayed before the Court below.

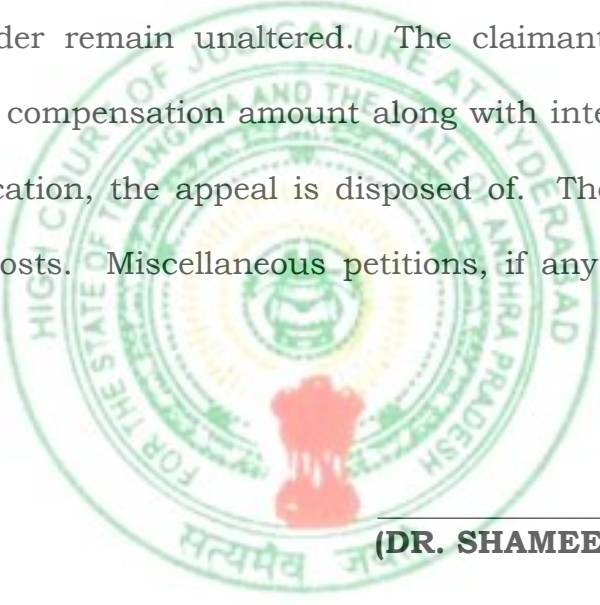
5. Learned counsel for the appellant-claimant submitted that though the petitioner suffered grievous injuries, the Court

below had not awarded any compensation on that score and also contended that the Court below awarded interest @ 7.5% per annum from 05.01.2006 i.e. from the date of commencement of evidence and ultimately, prayed to enhance the compensation to Rs.3,50,000/-, as claimed.

6. The Tribunal, after considering the entire oral and documentary evidence, granted compensation of an amount of Rs.23,000/- towards medical expenses, Rs.24,000/- towards loss of earnings for a period of four months, an amount Rs.1,000/- towards transport to hospital, Rs.5,000/- towards extra nourishment and Rs.1,000/- towards damage to clothing were also granted. Further, an amount of Rs.10,000/- towards loss of expectation of life and Rs.10,000/- towards pain and suffering were granted. An amount of Rs.25,000/- was granted towards removal of implants. In all, an amount of Rs.99,000/- was granted with interest @ 7.5% per annum from 05.01.2006, being the date of adducing evidence, till the date of realisation.

7. Learned counsel for the appellant vehemently contended that the appellant-petitioner suffered permanent disability that he cannot lift the weights and no amount was granted on this score. P.W.3 is the doctor, who did not state about any disability said to have been suffered by the appellant-claimant. Therefore, the Court below had not granted any amount towards permanent/partial disability. Granting of compensation in favour of the appellant-claimant is based on the evidence available on record. The Court below assigned number of reasons for granting total compensation of Rs.99,000/- .

8. The claim petition was filed in the year 2004, but the interest was awarded from 05.01.2006 stating that the petitioner adduced evidence on 05.01.2006. It is not a correct finding. Certainly, it takes some time to the respondents to file counter and thereafter, for framing of issues and to file documents and proceed with the recording of evidence. Therefore, there is no justification on the part of the Court below in awarding interest from 05.01.2006. In the result, interest @ 7.5% is awarded from the date of petition till the date of realisation. The amount of compensation granted remains confirmed. The other terms of the impugned order remain unaltered. The claimant is entitled to withdraw the compensation amount along with interest. With the above modification, the appeal is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.



(DR. SHAMEEM AKTHER, J)

11th June 2018
RRB