

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.2209 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 28.10.2004 in O.P.No.604 of 2002 on the file of the Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Court, Hyderabad (for short 'the Tribunal').

2. Heard the learned counsel for the appellant-claimant, the learned counsel for the 2nd respondent-Insurance Company and perused the record. There is no representation for the 1st respondent-owner.

3. Learned counsel for the appellant-claimant would contend that though there was amputation of right leg, the Tribunal granted meager compensation towards loss of future earnings by taking Rs.1,500/- as monthly income of the appellant. Further, though there is a record that the appellant incurred medical expenses to a tune of Rs.1,62,735/-, the Tribunal granted only Rs.86,000/- towards medical expenses and ultimately, prayed to enhance the compensation.

4. Learned counsel for the respondent-Insurance Company would contend that the Tribunal had rightly taken 50% disability and monthly income of the appellant as Rs.1,500/- and awarded the compensation towards loss of future earnings. Further, considering the medical bills, the Tribunal rightly granted Rs.86,000/- towards medical expenses. In all, the

Tribunal granted compensation of Rs.2,56,500/-, which is just and reasonable. 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 counsel, the point that arises for determination is, whether the appellant is entitled for enhancement of compensation?

6. There is no dispute with regard to the appellant-claimant suffering injuries in a motor accident that occurred on 20.08.2001 due to the rash and negligent driving of the driver of jeep bearing No.AP 25F 2286. The only dispute is with regard to the quantum of compensation.

7. While dealing with the award of compensation towards medical expenses, the Tribunal had taken the oral evidence and medical expenses and held that the appellant incurred medical expenses to a tune of Rs.86,000/- only and awarded the said amount. The said award is based on evidence on record. There is nothing to take a different view. The Tribunal also justified in granting the compensation for the injuries, pain and suffering, extra nourishment, transportation, etc.

8. As far as the award of compensation towards 50% disability is concerned, the Tribunal took the monthly income of the appellant as Rs.1,500/- and applied multiplier '17'. The appellant was 22 years old and working as technical operator. Hence, taking the monthly income of the appellant as Rs.1,500/- appears to be on lower side. The Tribunal could have taken Rs.2,000/- as monthly income of the appellant, which comes to

Rs.24,000/- per annum. As per *Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another*¹ case, the suitable multiplier for the age group of the appellant is '18'. When the same is applied, the compensation for loss of earnings comes to Rs.4,32,000/-. The appellant suffered 50% disability. Thus, the loss of future earnings for 50% disability comes to Rs.2,16,000/-. Hence, the appellant is entitled for Rs.2,16,000/- towards loss of future earnings instead of Rs.1,53,000/-. In all, the appellant is granted compensation of Rs.3,19,500/-.

9. Accordingly, the appeal is partly allowed modifying the order, dated 28.10.2004 passed by the Tribunal in O.P.No.604 of 2002, enhancing the compensation from Rs.2,56,500/- to Rs.3,19,500/- with interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till the date of deposit. The other directions given by the Tribunal remain unaltered. On deposit of the enhanced compensation, the appellant is permitted to withdraw the same along with the interest accrued thereon.

Miscellaneous petitions, if any, pending shall stand closed.

No costs.

Dr. SHAMEEM AKTHER, J

Date : 24.09.2018
ssp

¹ 2009 (6) SCC 121