

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2818 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.6,360/- as against a claim of Rs.1,20,000/- by the Chairman, Motor Accident Claims Tribunal-cum-V Additional District Judge Nizamabad ('the Tribunal', for brevity), vide order, dated 01.07.2005, passed in O.P.No.528 of 2001, 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 appellant-claimant suffered grievous injuries in the subject accident. There is evidence of P.W.2-doctor and X-rays to prove the same. The Tribunal granted a meagre compensation of Rs.6,360/- as against a claim of Rs.1,20,000/- 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 is justified in granting a compensation of Rs.6,360/- with interest @ 9% per annum from the date of petition till realisation. The findings of the Tribunal are based on oral and documentary evidence on record. There are no circumstances to

enhance the compensation and ultimately prayed to dismiss the appeal.

5. It is not in dispute that the appellant-claimant suffered injuries in the motor accident occurred on 26.11.2000, due to rash and negligent driving of the driver of the lorry/tipper bearing registration no.AP-25-T-5550. So, the only point that arises for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation.

6. There is evidence of P.W.2-Dr.G.Jaya Prakash, to the effect that the appellant-claimant sustained grievous injuries in the subject accident. X-rays are filed to substantiate that there was fracture to the skull of the appellant-claimant. Swelling was also present. P.W.2 deposed that the appellant-claimant suffered 50% disability and issued Ex.A.20-Disability Certificate to that effect. He is only an orthopaedic surgeon. Had the appellant-claimant sustained 50% disability as contended, he would have got examined a Neurosurgeon to prove the same. Considering the fact that the injury suffered by the appellant-claimant is grievous in nature, this Court deems it appropriate to grant an amount of Rs.12,000/- on this score. This Court also deems it appropriate to grant Rs.1,000/- for the pain and suffering and other incidental expenses. Accordingly, the appellant-claimant is entitled for Rs.13,000/- with interest @ 7.5% per annum on the enhanced compensation.

7. Accordingly, this appeal is allowed in part, modifying the order, dated 01.07.2005, passed in O.P.No.528 of 2001 by the

Tribunal, enhancing the compensation payable to the appellant-claimant from Rs.6,360/- to Rs.13,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of application till realisation. The other terms of the Order under challenge remain unaltered. On deposit of the compensation, the appellant-claimant is permitted to withdraw the entire amount with interest accrued thereon.

Miscellaneous Petitions pending, if any, shall stand closed.

There shall be no order as to costs.

18th July, 2018
Bvv



Dr. SHAMEEM AKTHER, J