

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A. No.2190 OF 2004

JUDGMENT:

Dissatisfied with the quantum of compensation of Rs.2,62,952/- awarded by the Chairman, Motor Accident Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad ('the Tribunal' for brevity), vide order, dated 17.10.2003, passed in O.P.No.119 of 2000, as against the total claim of Rs.6,00,000/-, the petitioner-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 the appellant-petitioner, learned counsel for respondent No.2-Insurance Company and perused the record.

3. Learned counsel for the appellant-petitioner would contend that the Tribunal had granted Rs.2,62,952/- against the claim of Rs.6,00,000/-. The appellant suffered grievous injuries and 30% disability. The Tribunal had not granted compensation towards loss of amenities, pain and suffering. The Tribunal ought to have applied appropriate multiplier to assess the loss of compensation payable to the appellant as he suffered 30% disability and ultimately prayed to enhance the compensation. He relied on the decision reported in ***Jagdish v. Mohan and others***¹ and contended that the Tribunal has to award the compensation in favour of the injured persons on the following aspects:- i) Pain, suffering and trauma resulting from the accident, ii) loss of income including future income, iii) inability of the victim to lead a normal life together with its amenities, iv) medical expenses including those

¹ AIR 2018 SC 1347

that the victim may be required to undertake in future and v) loss of expectation of life and ultimately prayed to enhance the compensation as claimed.

4. Learned counsel appearing for the respondent-insurer would submit that the Tribunal had taken all the facts and circumstances into consideration and awarded just and reasonable amount towards compensation. The doctor, who treated the petitioner, was not examined nor disability certificate showing the disability of the petitioner as 30% was filed. Moreover, the appellant was Sub-Inspector of police. Therefore, there was no loss of income, promotion, etc. The Tribunal had also granted Rs.25,000/- towards pain and suffering as claimed. There is no infirmity in the impugned order. There are no circumstances to enhance the compensation as prayed for.

5. In view of the submissions made by both sides, there is no dispute with regard to the petitioner suffering injuries due to rash and negligent driving of Matiz car bearing No.AP 9 AC 4554 by its driver. The only dispute between the parties is with regard to enhancement of compensation. As seen from the evidence on record, the appellant had claimed Rs.25,000/- towards pain and suffering, the same was awarded. Admittedly, the doctor who treated the appellant was not examined. The appellant is a Government servant. There was medical reimbursement facility. The bills filed to a tune of Rs.6,644/- were considered and Rs.10,000/- was granted towards medical expenses. The Tribunal assessed the disability suffered by the petitioner at 30%. On that score, the Tribunal without applying multiplier, granted a lumpsum of Rs.2,00,000/-. The Tribunal had also granted Rs.18,398/-

towards loss of income. The appellant was a Government servant and working as Sub Inspector at relevant point of time. There is no record to show that there was any loss of future income. When the Tribunal had granted an amount of Rs.2,00,000/- in lumpsum, it cannot be held that the Tribunal had not granted amount towards loss of amenities, expectation of life etc., The disability of 30% determined by the Tribunal is not based on any expert's opinion, particularly, medical board of the district concerned. However, the Tribunal taking total circumstances of the case and also the injuries suffered by the appellant i.e., fracture to his left leg ankle and hairline crack to pelvic bone, which are grievous in nature and awarded compensation of Rs.2,62,952/- in total on different heads, which is just and reasonable. The appeal is devoid of merit and it is liable to be dismissed.

6. In the result, the appeal is dismissed.

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

Date: 13.06.2018
ssp

Dr. SHAMEEM AKTHER, J