

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2914 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 05.08.2005 in O.P.No.338 of 2002 on the file of the Motor Accident Claims Tribunal-cum-District Judge, Adilabad (for short 'the Tribunal').

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

3. Learned counsel for the appellant-claimant would contend that the appellant suffered grievous injuries. Though there are bills to substantiate the expenses at Rs.2,00,000/-, the Tribunal had granted only Rs.1,05,540/- towards medical expenses. Further, the Tribunal had not granted any compensation towards loss of earnings and other incidental expenses and ultimately prayed to enhance the compensation.

4. On the other hand, learned counsel for the respondent-Insurance Company would contend that the Tribunal had taken all the facts and circumstances into consideration and granted just and reasonable compensation on all heads. There are no circumstances to enhance the compensation and ultimately, prayed to dismiss the appeal.

5. In view of the above rival contentions, 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 suffering injuries in a motor accident that occurred on 27.12.2001 due to the rash and negligent driving of the driver of lorry bearing No.AP 27U 5289. The only dispute is with regard to quantum of compensation.

7. The Tribunal while analysing the entire evidence held that the appellant suffered one grievous injury to the internal part of the head. So, the Tribunal granted Rs.20,000/- for the said injury and Rs.1,05,540/- towards medical expenses. The Tribunal had rightly assessed the compensation on that head. While determining the compensation towards medical expenses, the Tribunal had elaborately dealt with the medical bills i.e., Exs.A3 to A50, A.54 to A.78, A.80 and A.81 and held that the said bills were not supported by medical prescriptions and there is discrepancy in the serial numbers and dates, etc. Finally, the Tribunal took Ex.A.79 medical bill into consideration and granted the aforementioned amount towards medical bills. This finding is based on evidence on record. There cannot be any variation. The Tribunal had not granted any amount towards loss of earnings and extra nourishment. Hence, the appellant is entitled for Rs.15,000/- under the said heads.

8. Accordingly, this appeal is allowed in part modifying the order dated 05.08.2005 passed by the Tribunal in O.P.No.338 of 2002, enhancing the compensation from Rs.1,05,540/- to Rs.1,20,540/- with interest @ 7.5% per annum from the date of petition till the date of deposit. The other terms of the order under challenge remain

unaltered. On deposit, the appellant-claimant is permitted to withdraw the same along with interest accrued thereon.

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

Dr. SHAMEEM AKTHER, J

Date: 21.08.2018
ssp

