

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2903 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.17,900/- as against a claim of Rs.1,00,000/-, vide order, dated 28.07.2005, passed in O.P.No.103 of 2002 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Adilabad, the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of compensation.

2. Heard the learned counsel for appellant-claimant and perused the record. In spite of service of notice and despite listing this matter under the caption "For Orders", there is no representation for the 2nd respondent-Insurance Company. This appeal is of the year 2005. Hence, this appeal can be disposed of basing on the material available on record, without waiting for the learned Standing Counsel for the 2nd respondent-Insurance Company to advance arguments.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant suffered one grievous injury and four simple injuries in the subject accident occurred on 29.03.2001. The Tribunal granted a meagre compensation of Rs.17,900/- as against a claim of Rs.1,00,000/- and ultimately prayed to enhance the compensation as claimed.

4. As per the material placed on record, the appellant-claimant suffered injuries in the subject accident occurred on

29.03.2001 due to rash and negligent driving of the driver of the lorry bearing registration No.MP-24-C-2308. The point that arises for determination in this appeal is whether the appellant-claimant is entitled for enhancement of compensation as claimed.

5. Ex.A.2 is the certified copy of Injury Certificate of the appellant-claimant. No X-ray and case-sheet is filed to show that the appellant-claimant suffered one grievous injury in the subject accident. Further, no doctor was examined to substantiate that the appellant-claimant suffered injuries in the subject accident. Had the appellant-claimant filed X-Rays and case-sheet to substantiate that he suffered a grievous injury in the subject accident, the Tribunal would have considered the same, so also this Court. In the absence of the same, it is not appropriate to hold that the appellant-claimant suffered one grievous injury to his Tibia in the subject accident. The Tribunal is justified in granting a compensation of Rs.17,900/- with interest @ 9% per annum from the date of petition till realisation. There are no circumstances to enhance the compensation. The appeal is devoid of merit and is liable to be dismissed.

6. In the result, the appeal is dismissed. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

27th August, 2018
Bvv