

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3522 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/claimant aggrieved by the grant of compensation of Rs.15,500/- with proportionate costs and interest at 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.1,00,000/-, by the learned Chairman, Motor Accident Claims Tribunal – cum – III Additional District Judge (Fast Track Court), Adilabad at Asifabad (for short, “the Tribunal”) *vide* order, dated 09.02.2005, passed in O.P.No.850 of 2002.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant and the learned Standing Counsel for the United India Insurance Company Limited appearing for respondent No.2, and perused the record.

3. Learned counsel for the appellant/claimant would contend that the claimant suffered crush injury to his left foot and in all, received two grievous injuries and one simple injury and did not work for a period of five months, but the Tribunal awarded the total compensation of Rs.15,500/- only as against a claim of Rs.1,00,000/-, which is meagre; that the compensation granted by the Tribunal towards other heads is also meagre and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel for the United India Insurance Company Limited appearing for respondent No.2 would contend that the Tribunal had taken all the factors into

consideration and rightly assessed the compensation at Rs.15,500/- with proportionate costs and interest at 9% per annum from the date of petition till the date of realisation, which is just and reasonable; that the Tribunal took into consideration the nature of injuries and the consequences arose therefrom and granted reasonable compensation on all heads; that 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 the counsel, the short point that falls for determination is:

“Whether the appellant/claimant is entitled for enhancement of compensation?”

6. **POINT:-** There is no dispute with regard to the claimant suffering injuries in a road accident that occurred on 21.03.1995 due to the rash and negligent driving of the driver of lorry bearing No.ATT-7759. The only dispute is with regard to enhancement of compensation.

7. To prove the injuries and the consequences arose therefrom, the claimant himself deposed as P.W.1 and got marked Exs.A-1 to A-9. There is no evidence on behalf of the respondents i.e., owner of lorry bearing No.ATT-7759 (offending vehicle) and the Insurance Company. Ex.A-2 is the copy of medical certificate. The Tribunal, considering Ex.A-2, held that the claimant suffered two grievous injuries, one simple injury and crush injury to his left foot and awarded compensation of an amount of Rs.3,000/- towards pain and suffering. Considering the injuries and the consequences arose therefrom, grant of Rs.3,000/- towards compensation for pain and suffering is meagre. So, the claimant is entitled for an amount of Rs.15,000/- for the pain and suffering suffered by him for the said

injuries. The subject accident occurred on 21.03.1995. Therefore, the earning capabilities and the medical expenses of those days are required to be taken into consideration. The Tribunal rightly granted an amount of Rs.6,000/- towards loss of earnings, Rs.1,500/- towards transport expenses and Rs.5,000/- towards medical expenses and extra nourishment. The Tribunal is justified in granting compensation on different heads. There are no circumstances to enhance the compensation on other heads. Thus, the appellant/claimant is entitled for a total compensation of Rs.27,500/- (Rupees twenty seven thousand five hundred only) (Rs.6,000/- + Rs.1,500/- + Rs.5,000/- + Rs.15,000/-).

8. Accordingly, this appeal is allowed in part modifying the order, dated 09.02.2005, passed in O.P.No.850 of 2002 by the Tribunal, enhancing the compensation from Rs.15,500/- to Rs.27,500/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. On deposit of the compensation, the appellant/claimant is permitted to withdraw the entire amount along with the accrued interest. There is no change in the other directions given by the Tribunal. There shall be no order as to costs.

9. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 30.08.2018
AMD

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