

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3713 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.21,000/- with proportionate costs and interest at 9% per annum from the date of petition till the date of deposit, 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 28.03.2005, passed in O.P.No.679 of 2001.

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 as against a claim of Rs.1,00,000/-, the Tribunal granted a compensation of Rs.21,000/- with proportionate costs and interest at 9% per annum from the date of petition till the date of deposit, which is meagre; that the Tribunal has also granted meagre amount towards the fracture injury suffered by the claimant 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 though the claimant suffered only one fracture injury, the Tribunal had taken into consideration the said injury as well as the consequences arose thereon and awarded just compensation of Rs.21,000/- in total along with proportionate costs and interest at 9% per annum from the date of petition till the date of deposit; that there is no infirmity in the impugned order and 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 learned counsel on either side, 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 04.04.2001 due to the rash and negligent driving of the driver of tipper bearing No.AIL-9387. The only dispute is with regard to enhancement of compensation.

7. As seen from the material on record, the appellant/claimant suffered fracture of right femur. He incurred medical expenses for treatment and recovery. Having considered the same, the Tribunal granted a compensation of Rs.21,000/- with proportionate costs and interest at 9% per annum from the date of petition till the date of deposit. The claimant was a hamali aged 45 years at the time of the accident. In view of the fracture of right femur and the consequences arose there from, the Tribunal ought to have granted some more compensation. So, an amount of Rs.10,000/- is granted in addition to the amount granted by the Tribunal. Thus,

the appellant/claimant is entitled for a total compensation of Rs.31,000/- (i.e., Rs.21,000/- + Rs.10,000/-) (Rupees thirty one thousand only).

8. Accordingly, this appeal is allowed in part modifying the order, dated 28.03.2005, passed in O.P.No.679 of 2001 by the Tribunal, enhancing the compensation from Rs.21,000/- to Rs.31,000/-. 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 : 11.10.2018
AMD

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