

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3269 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 10.06.2005 in O.P.No.33 of 2001 on the file of the Motor Accident Claims Tribunal-cum-II Additional District Judge (Fast Track Court), Srikakulam (for short 'the Tribunal').

2. Heard the learned counsel for appellant-claimant, the learned counsel for respondent No.2-Insurance Company and perused the record. The appeal against respondent No.1-owner was dismissed for default on 06.01.2012.

3. Learned counsel for the appellant-claimant would contend that the appellant received four injuries, out of which, one is grievous injury. The Tribunal granted compensation of Rs.14,000/-, which is meagre and ultimately, prayed to enhance the same.

4. Learned counsel for the respondent No.2-Insurance Company would contend that the Tribunal had granted compensation on different heads having analysed the entire evidence on record. There are no grounds 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-claimant is entitled for enhancement of compensation?

6. There is no dispute with regard to the appellant-claimant suffering injuries in a motor accident caused by bus

bearing No.AP 30T 1661 being driven by its driver in rash and negligent manner on 05.05.1999. The only dispute is with regard to quantum of compensation.

7. The Tribunal granted compensation of Rs.5,000/- for pain and suffering, another Rs.5,000/- for incidental expenses and Rs.4,000/- towards loss of income. In all, the Tribunal granted compensation of Rs.14,000/-.

8. The accident was occurred on 05.05.1999. The cost of living prevailing then is required to be taken into consideration to assess and award the compensation payable to the appellant. The appellant has filed Ex.A1-certified copy of FIR, Ex.A2-certified copy of motor vehicle inspector's report, Ex.A3-certified copy of wound certificate, Ex.A4-charge sheet and Ex.A5-physically handicapped certificate, which shows that the appellant suffered 30% disability. P.W.2-doctor also deposed about the same. There is a Board in every District to ascertain permanent partial disability, but the record does not disclose that the appellant was examined by any member of the said Board.

9. Though the appellant contended that he suffered number of injuries in the motor accident, Ex.A3-wound certificate shows that the appellant has suffered one grievous injury i.e, fracture to his left leg. The case sheet marked as Ex.X1 reveals the same. The evidence of P.W.2-doctor shows that he conducted operation on 21.05.1999 and inserted nail to the appellant. The appellant was discharged on 17.06.1999. The accident occurred on 05.05.1999. The cost of nail was

Rs.10,000/-. The appellant did not produce the record to show the said cost of nail. In view of the circumstances, it can safely be concluded that the appellant has suffered fracture to his left leg, which is grievous in nature. Hence, Rs.15,000/- can be granted on that head.

10. The appellant is an earning member. Hence, an amount of Rs.9,000/- can be granted as loss of earnings for a period of six months @ Rs.1,500/- per month. Though the appellant has not filed medical bills, there is evidence of P.W.2-doctor that the appellant took treatment in private hospital. Considering the same, Rs.6,000/- can be granted towards medical expenses. For insertion and for removal of nail, the appellant is also entitled for an amount of Rs.10,000/-. In all, the appellant is entitled for compensation of Rs.40,000/- with interest @ 7.5% per annum on the enhanced compensation.

11. Accordingly, this appeal is allowed in part modifying the order dated 10.06.2005 passed by the Tribunal in M.V.O.P.No.33 of 2001 enhancing the compensation from Rs.14,000/- to Rs.40,000/- with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit. On such deposit, the appellant-claimant is permitted to withdraw the entire amount along with the accrued interest.

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

Dr. SHAMEEM AKTHER, J

Date: 20.07.2018
ssp