

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3558 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.83,000/- as against a claim of Rs.1,50,000/- by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Srikakulam ('the Tribunal' for brevity), vide order, dated 06.10.2005, passed in M.V.O.P.No.78 of 2001, the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant suffered grievous injuries in the subject accident occurred on 21.01.2000. As per the evidence of P.W.2-doctor, the appellant-claimant suffered 35% disability. But the Tribunal took the disability suffered by the appellant-claimant as 20%. Further, the Tribunal took the monthly income of the appellant-claimant as Rs.1,250/-, which is meagre. The Tribunal did not grant adequate compensation on different heads and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for respondents 2 and 3/RTC would contend that though the appellant-claimant had not filed any certificate from the competent Medical Board showing the disability sustained by him in the subject accident, the Tribunal took the disability suffered by him as 20% and rightly granted an amount of Rs.48,000/- towards disability. There is

specific evidence of P.W.2-doctor that treatment at K.G.Hospital, Visakhapatnam, where the appellant-claimant took treatment, is free of cost. Having analysed the entire evidence on record in right perspective, the Tribunal granted just and reasonable amount as compensation. There are no circumstances to enhance the same and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the appellant-claimant sustained injuries in the subject accident occurred on 21.01.2000, due to rash and negligent driving of the driver of the RTC bus bearing registration No.AP-09-Z-8103. The point that arises for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation as claimed.

6. As per the evidence of P.W.2-Dr.M.Ambedkar and the entire medical record, the appellant-claimant suffered fracture to both bones of his left leg, which is evident from Ex.A.2-Certified copy of Wound Certificate and Ex.A.8-X-ray films. P.W.2-Dr.M.Ambedkar, Retired Professor and Head of Orthopaedic Department, King George Hospital, Visakhapatnam, treated the appellant-claimant. According to him, the appellant-claimant suffered 35% disability due to the accidental injuries. The Tribunal, after analysing the entire medical evidence on record, assessed the disability suffered by the appellant-claimant as 20% and taking into consideration the deposition of P.W.2-doctor that the entire treatment at King George Hospital, Visakhapatnam, is free of cost, granted a total compensation of Rs.83,000/- with interest @ 7.5% per annum from the date of petition till realisation, under different heads, as detailed below.

1.	Towards Medical Expenses	Rs.20,000/-
2.	Towards pain, suffering and mental agony	Rs.10,000/-
3.	Towards disability	Rs.48,000/-
4.	Towards loss of income	Rs.5,000/-
TOTAL		Rs.83,000/-

7. As per the evidence on record, the appellant-claimant was working as a cleaner on the jeep bearing registration No.AP-30-T-4429 as on the date of the subject accident. The Tribunal took the monthly income of the appellant-claimant as Rs.1,250/-, which is on lower side. Having regard to the totality of the circumstances, this Court deems it appropriate to assess the monthly income of the appellant-claimant as Rs.1,500/-. Though the appellant-claimant had not filed any certificate from the competent Medical Board showing the disability sustained by him in the subject accident, the Tribunal took the disability suffered by him as 20%, which is just and reasonable. The Tribunal rightly applied multiplier '16' to the age of the appellant-claimant. Thus, the appellant-claimant is granted an amount of Rs.57,600/- towards disability ($\text{Rs.1,500/-} \times 12 \times 16 \times 20/100$).

8. The Tribunal granted an amount of Rs.10,000/- towards pain, suffering and mental agony. Fractures to both bones of the left leg would have certainly caused much pain to the appellant-claimant. Hence, this Court deems it appropriate to grant a compensation of Rs.20,000/- towards pain, suffering and mental agony, instead of Rs.10,000/- granted by the Tribunal. The Tribunal is justified in granting Rs.5,000/- towards loss of income and Rs.20,000/- towards medical expenses. Thus, the appellant-claimant is entitled for a total compensation of Rs.1,02,600/- rounded to Rs.1,03,000/- ($\text{Rs.57,600/-} + \text{Rs.20,000/-} + \text{Rs.20,000/-} + \text{Rs.5,000/-}$). The Tribunal awarded interest at the rate of 7.5% per annum on the

amount granted as compensation from the date of petition till realisation, which is just and reasonable.

9. Accordingly, this appeal is allowed in part, modifying the order, dated 06.10.2005, passed in M.V.O.P.No.78 of 2001, by the Tribunal, enhancing the compensation from Rs.83,000/- to Rs.1,03,000/- with interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation. The appellant-claimant is permitted to withdraw the entire enhanced compensation along with the interest accrued thereon, on deposit. Other terms of the Order under challenge remain unaltered. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

18th September, 2018
Bvv

Dr. SHAMEEM AKTHER, J

