

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A. No.3593 OF 2004

JUDGMENT:

Dissatisfied with the quantum of compensation of Rs.3,80,000/- awarded by the Chairman, Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad ('the Tribunal' for brevity), vide order, dated 05.07.2004, passed in O.P.No.1230 of 2001, as against the total claim of Rs.15,00,000/-, the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for the appellant-claimant and the learned counsel for 1st respondent. The appeal against respondent No.3 is dismissed on 08.02.2016 for default. Though notice was served on respondent No.2, none appeared till date. Therefore, the matter can be disposed of on merits.

3. Learned counsel for the appellant-petitioner would contend that the appellant incurred huge medical expenses due to amputation of right fore arm. The Tribunal had granted Rs.50,000/- towards pain and suffering and Rs.1,00,000/- towards loss of future earnings, which are very meagre. The Tribunal had granted interest at 6% per annum. It ought to have granted interest at 15% per annum. The Tribunal had not granted any future medical expenses. and ultimately prayed to enhance the compensation to Rs.15,00,000/-.

4. Learned counsel for respondent No.1-owner of the vehicle would contend that the Tribunal had meticulously assessed the compensation and granted Rs.3,80,000/-, which is just and reasonable. There are no circumstances to interfere with the same and ultimately prayed to dismiss the appeal.

5. As seen from the evidence, the appellant claimed compensation of Rs.15,00,000/- with interest at 24% per annum for the grievous injuries suffered by him in a motor accident which occurred on 17.12.2000 due to rash and negligent driving of the driver of the lorry bearing No.AP10T 4352. There is evidence to believe that when the petitioner was proceeding on his scooter on the said date, the accident occurred and injuries were caused to him due to rash and negligent driving of the driver of the aforementioned lorry. There is oral evidence of P.W.1 as well as the documentary evidence to that effect. The Tribunal decided this issue of rashness and negligence in favour of the appellant. There are no grounds to interfere with the same.

6. The only question remains to be determined is that whether the appellant is entitled for enhancement of compensation as prayed for?

7. To substantiate his claim, the claimant examined himself as P.W.1 and also examined Dr.B.Arun Kumar as P.W.2 and marked Ex.A1-copy of FIR, Ex.A2-copy of driving licence of the petitioner, Ex.A3-certificate of New India Assurance company policy, Ex.A4-final bill statement issued by Yashoda Super

Speciality Hospital, Ex.A5-Income Tax return of Form No.2-A, Ex.A6-Form 16, Ex.A7-TDS statement, Ex.A8-Income tax return for the year 2000, Ex.A9-original driving licence of the petitioner, Ex.A10-insurance certificate, Ex.A11-copy of vehicle registration certificate, Ex.A12-Service certificate, Ex.A13-medical certificate given by P.W.2, Ex.A14-medical certificate issued by Medical Board, OGH, Hyderabad and Ex.A15-discharge summary. There is no dispute with regard to insurance of the offending lorry bearing No.AP10T 4352 with respondent No.2-insurance company.

8. The Tribunal had granted an amount of Rs.1,00,000/- towards loss of future earnings. There is evidence of P.W.2-Dr.B.Arun Kumar that he attended the appellant-claimant at Yashoda Hospital; that the appellant-claimant was admitted on 17.12.2000 and discharged on 12.01.2001, and that the loss of hand was due to the result of the accident and that the appellant-claimant sustained abdomen injuries for which emergency exploratory laparotomy was done and that his spleen and two feet of intestine were removed; that he treated the appellant-claimant after discharge also. He also deposed that the appellant-claimant sustained backbone fracture and that normal life of the appellant-claimant was affected due to the accident and it is a permanent disability. In cross-examination, he reiterated what he stated in his examination-in-chief and denied the suggestions given by the other side. From his evidence, it is clear that due to the accidental injuries, the

appellant's life span had been considerably reduced and his future prospects to make healthy living and earning are also curtailed. There is loss of hand and spleen, etc. The Tribunal instead of granting Rs.2,00,000/- towards compensation for loss of future earnings, granted only Rs.1,00,000/-. Therefore, on this ground and to meet the ends of justice, the appellant-claimant is entitled for a sum of Rs.2,00,000/- towards compensation for loss of future earnings and other amenities in life, etc. Further, as per settled law, the appellant/claimant is entitled to interest at 7.5% per annum on the enhanced compensation amount. There are no grounds to interfere with the compensation granted by the Tribunal on other heads.

9. In the result, the appeal is allowed in part modifying the order, dated 05.07.2004, passed by the Tribunal in O.P.No.1230 of 2001, enhancing the compensation from Rs.3,80,000/- to Rs.4,80,000/- with interest at 7.5% per annum on the enhanced compensation, from the date of petition till the date of deposit. On deposit of the compensation, the appellant-petitioner is permitted to withdraw the entire amount along with the accrued interest. The other terms of the order under challenge remain unaltered.

Miscellaneous Petitions pending, if any, shall stand closed.
There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

13.06.2018

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