

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2967 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.1,50,000/- as against a claim of Rs.2,25,000/- by the learned Chairman, Motor Accident Claims Tribunal – cum – II Additional District Judge, Ranga Reddy District (for short, “the Tribunal”) *vide* order, dated 30.06.2005, passed in O.P.No.1395 of 1999.

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

3. Learned counsel for the appellant/claimant would contend that the claimant was a X class school going girl at the time of accident, and she suffered amputation of her right hand little finger and several injuries all over her body; that as per the material placed on record, the claimant suffered 40% disability, but the Tribunal granted only an amount of Rs.1,50,000/- as against a claim of Rs.2,25,000/-, which is meagre; that there is also medical evidence to show that the claimant incurred Rs.58,000/- towards medical expenses and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel appearing for the National Insurance Company Limited representing respondent

No.2 would contend that the accident occurred on 19.08.1999 and hence, the capacity to earn in those days is to be taken into consideration to assess and award the compensation; that the Tribunal had taken all the factors into consideration and granted compensation of Rs.1,50,000/- as against a claim of Rs.2,25,000/- which is just and reasonable; that there are no circumstances to interfere with the impugned judgment 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 that the claimant suffered injuries in a motor accident that occurred on 19.08.1999 due to the rash and negligent driving of the driver of lorry truck bearing No.AP 11U 6678. The only dispute is with regard to enhancement of compensation. As per Ex.A-7 – disability certificate, the claimant is said to have suffered 40% disability, but no Doctor was examined to substantiate the same. There is only the evidence of P.W.1. The Tribunal, while dealing with the same, held that as per Ex.A-6 – positive photographs (two in number), the claimant’s right hand little finger was chopped off and her right forearm suffered with a crush injury. Taking the same into consideration and the age of the claimant as on the date of accident i.e., 14 years, and X class student, the Tribunal granted Rs.50,000/- towards injuries sustained by her, Rs.30,000/- towards permanent disfigurement, Rs.12,000/- towards pain and suffering, attendant and

transportation charges etc., Rs.45,000/- towards medical expenses *vide* bill, dated 19.08.1999, and another sum of Rs.12,969/- towards medical expenses *vide* bill, dated 08.09.1999. In total, the Tribunal awarded an amount of Rs.1,50,000/- on different heads and the same is just and reasonable. There is no record to show that the claimant suffered 40% disability. There is nothing to take a different view. The assessment and calculation of compensation by the Tribunal is based on evidence on record. Therefore, it cannot be held that the compensation awarded by the Tribunal is meagre. Hence, the appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, this appeal is dismissed. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 24.07.2018
AMD

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