

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2696 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.21,000/- as against a claim of Rs.2,50,000/- by the Motor Accident Claims Tribunal-cum-IV Additional District Judge (FTC), Ranga Reddy District at L.B.Nagar ('the Tribunal', for brevity), vide order, dated 08.07.2005, passed in O.P.No.579 of 2003, 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 both sides and perused the record.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant suffered grievous injuries in the subject accident. He had spent more than Rs.50,000/- towards medical expenses. The Tribunal granted a meagre compensation of Rs.21,000/- as against a claim of Rs.2,50,000/- and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the respondent-APSRTC contended that the Tribunal justified in granting a compensation of Rs.21,000/- with interest @ 7.5% per annum from the date of petition till the date of payment. The findings of the Tribunal are based on oral and documentary evidence on record. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal.

5. It is not in dispute that the appellant-claimant suffered injuries in the motor accident occurred on 13.05.2002, due to rash and negligent driving of the driver of the RTC bus bearing registration No.AP-10-Z-7465. The only point that arises for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation.

6. Ex.A.3 is medical record of the appellant-claimant issued by Gandhi Hospital. According to it, the appellant-claimant suffered the following injuries:

1. Laceration of 5 x 2 x 1 cms on right fore head.
2. Swelling of right upper eye lid.
3. Abrasion of diameter 3 cms on right knee.
4. Laceration below left great toe 3 x 1 x 1 cms.

7. The Tribunal, relying on the evidence of P.W.3-doctor who treated the claimant, held that the injuries suffered by the appellant-claimant in the subject accident are simple in nature and granted an amount of Rs.15,000/- towards pain and suffering, Rs.3,000/- towards medical expenses, Rs.1,000/- towards transportation charges and Rs.2,000/- towards loss of earnings. In all, the Tribunal granted a compensation of Rs.21,000/- with interest @ 7.5% per annum from the date of petition till the date of payment.

8. The appellant-claimant was admitted in Gandhi Hospital immediately after the accident. Thereafter, the appellant-claimant took treatment in BBR Hospital, where, he underwent a surgery. There is record to show that the appellant-claimant took treatment as in-patient in BBR Hospital from 22.05.2002 to

05.06.2002. P.W.3-doctor specifically stated that the appellant-claimant underwent surgery and was advised to take follow up treatment. The evidence of P.W.3 is supported by the documentary evidence on record. There is no reason for P.W.3-doctor who treated the appellant-claimant to depose false. Had the appellant-claimant suffered simple injuries, he would not have undergone surgery for head injury. Admittedly, the injuries suffered by the appellant-claimant are grievous in nature. The date of the subject accident is 13.05.2002. The earning capabilities of the persons prevailing at that time are required to be taken into consideration. Having regard to the same, this Court is inclined to grant an amount of Rs.25,000/- for injuries, pain and suffering, Rs.6,000/- towards medical expenses, Rs.2,000/- towards transportation charges and Rs.5,000/- towards extra nourishment, attendant charges and other incidental expenses. In all, the appellant-claimant is entitled for a compensation of Rs.38,000/- (Rs.25,000/- + Rs.6,000/- + Rs.2,000/- + Rs.5,000/-). The Tribunal granted interest @ 7.5% per annum on the amount awarded as compensation from the date of petition till the date of payment, which is just and reasonable.

9. Accordingly, this appeal is allowed in part, modifying the order, dated 08.07.2005, passed in M.O.P.No.579 of 2003 by the Tribunal, enhancing the compensation payable to the appellant-claimant from Rs.21,000/- to Rs.38,000/- with interest at the rate of 7.5% per annum from the date of application till the date of payment. The other terms of the Order under challenge

remain unaltered. On deposit of the compensation, the appellant-claimant is permitted to withdraw the entire amount with interest accrued thereon.

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

30th July, 2018
Bvv

Dr. SHAMEEM AKTHER, J

