

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2791 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/claimant challenging the adequacy of compensation of Rs.10,000/- with proportionate costs and interest at 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.1,00,000/-, by the learned Chairman, Motor Accident Claims Tribunal – cum – VI Additional District Judge, Ranga Reddy District at Vikarabad (Fast Track Court) (for short, “the Tribunal”) *vide* order, dated 13.04.2005, passed in O.P.No.323 of 2004.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant. The matter pertains to the year 2005. In spite of listing the matter under the caption “For Orders”, there is no representation for respondent No.2/the New India Assurance Company Limited. Hence, the appeal can be disposed of basing on the material available on record.

3. Learned counsel for the appellant/claimant would contend that the claimant suffered grievous head injury and there is record to show the same; that the Tribunal granted only a sum of Rs.10,000/- as against a sum of Rs.1,00,000/-, which is meagre, and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. In view of the submissions made by the learned counsel for the appellant, the short point that falls for determination is:

“Whether the appellant/claimant is entitled for enhancement of compensation?”

5. **POINT:-** Ex.A-3 is the certified copy of the wound certificate of the claimant which shows that the claimant sustained abrasions all over the body on 29.04.2004. There is no mention in Ex.A-3 with regard to the number of abrasions the claimant sustained and on which parts of the body the abrasions were found. Ex.A-4 is outpatient ticket, dated 07.05.2004, issued in the name of the claimant. It shows that the claimant sustained fracture of right medial malleolus. It further shows that the claimant was admitted in the hospital on 29.04.2004 and discharged on 07.05.2004. Ex.A-5 is the bunch of medical prescriptions, three in number. They show that on 04.05.2004, some investigations were done. As seen from Ex.A-2 – charge sheet, the driver of the jeep bearing No.AP-28-M-966 is charged for the offence under Section 337 I.P.C. in respect of the simple injuries sustained by the claimant basing on Ex.A-3 – certified copy of wound certificate. There was valid insurance under Ex.B-1 to the offending jeep on the date of occurrence of the accident. While dealing with these aspects, the Tribunal granted a compensation of Rs.10,000/- with interest at the rate of 9% per annum. The claimant has not examined the doctor, who treated him, or any other person in support of his claim. When there is a specific mention in Ex.A-3 – certified copy of wound certificate that the claimant suffered abrasions all over his body, taking this into consideration, on all counts, the claimant can be granted a compensation of Rs.15,000/- instead of Rs.10,000/- granted by the Tribunal.

6. Thus, the appellant/claimant is entitled for a total compensation of Rs.15,000/- (Rupees fifteen thousand only). The Tribunal awarded interest at the rate of 9% per annum on the amount granted as compensation from the date of petition till the date of realisation. As per the settled legal position, the appellant/claimant is entitled for interest at the rate of 7.5% per annum on the enhanced amount of compensation.

7. Accordingly, this appeal is allowed in part modifying the order, dated 13.04.2005, passed in O.P.No.323 of 2004 by the Tribunal, enhancing the compensation from Rs.10,000/- to Rs.15,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. On deposit of the compensation, the appellant/claimant is permitted to withdraw the entire amount along with the accrued interest. There is no change in the other directions given by the Tribunal. 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 : 03.08.2018
AMD

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