

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3655 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.25,000/- with costs and interest at 6% per annum from the date of petition till realisation, as against a claim of Rs.1,00,000/-, by the learned Chairman, Motor Accident Claims Tribunal, Hindupur (for short, "the Tribunal") *vide* order, dated 17.05.2005, passed in O.P.No.24 of 2004.

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 Tribunal awarded a compensation of Rs.25,000/- only as against a claim of Rs.1,00,000/-, which is meagre; that the claimant suffered grievous injuries and she incurred medical expenses to a tune of Rs.20,000/-, but the Tribunal did not grant any compensation towards medical expenses and on other heads and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel for the National Insurance Company Limited appearing for respondent No.2 would contend that the claimant took the treatment in Government Hospitals and analyzing the entire evidence, the

Tribunal rightly rejected the medical bills of the claimant; that the Tribunal had taken all the factors into consideration and rightly assessed the compensation at Rs.25,000/-, which is just and reasonable; that there are no circumstances to interfere with the same 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 with regard to the claimant suffering injuries on 01.09.2003 due to the rash and negligent driving of the driver of the TATA-407 van bearing No.KA.12.2340. The only dispute is with regard to enhancement of compensation. As per the evidence of P.W.2 – Dr.Balaji and X-ray reports, it is evident that the claimant sustained fracture pubicrami on right side and that the fracture has united and there is shortening of right lower limb by half inch and there was fracture of calcaneum bone, fracture united arthritis of sub-talar joint and the percentage of disability is 10. As per the evidence of P.W.2, there are two injuries. One is on the right waist and the other is on the right foot and he also certified the disability to an extent of 10% because of shortening of the lower limb. The Tribunal granted a compensation of Rs.25,000/- in all. It is on lower side. There are two fractures and disability of 10% and also shortening of half inch of right lower limb. Hence, the claimant is entitled for an amount of Rs.20,000/- towards injuries, Rs.10,000/- towards pain and suffering, Rs.10,000/- towards disability, Rs.5,000/- towards

medical expenses, as the medical bills under Ex.A-6 show that the claimant incurred medical expenses of more than Rs.4,000/-, and Rs.5,000/- towards loss of earnings, transportation and extra nourishment and in all, the claimant is entitled for a compensation of Rs.50,000/- (Rupees fifty thousand only) (Rs.20,000/- + Rs.10,000/- + Rs.10,000/- + Rs.5,000/- + Rs.5,000/-).

7. Accordingly, this appeal is allowed in part modifying the order, dated 17.05.2005, passed in O.P.No.24 of 2004 by the Tribunal, enhancing the compensation from Rs.25,000/- to Rs.50,000/-. 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 : 08.08.2018
AMD

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