

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1564 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.78,500/- as against a claim of Rs.2,50,000/- by the Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Court at Hyderabad ('the Tribunal', for brevity), vide order, dated 19.01.2004, passed in O.P.No.811 of 2000, 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 Sri N.Vasudeva Reddy, the learned Standing Counsel for RTC (Now TSRTC) representing the respondents 1 and 2 and perused the record.

3. The learned counsel for the appellant-claimant would contend that though the appellant-claimant incurred medical expenses of Rs.60,000/-, the Tribunal granted only Rs.17,000/- on that score. Further, the Tribunal granted compensation of Rs.24,500/- for the injuries and Rs.5,000/- for pain, suffering, extra nourishment and transportation, which are meagre. Due to the injuries suffered by the appellant-claimant in the subject accident, she lost one academic year and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the RTC representing the respondents 1 and 2 would contend that

the Tribunal had taken all the relevant factors into consideration and granted just and reasonable amount as compensation. 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 31.01.2000, due to rash and negligent driving of the driver of the APSRTC bus bearing registration No.AEZ-2232. So, the only point that arises for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation.

6. The Tribunal, after analysing the entire evidence on record, granted a compensation of Rs.78,500/- with interest @ 9% per annum from the date of petition till the date of deposit, in favour of the appellant-claimant, as detailed below.

|       |                                                       |              |
|-------|-------------------------------------------------------|--------------|
| a.    | Injuries                                              | Rs.24,500/ - |
| b.    | Pain and suffering, extra nourishment, transportation | Rs.5,000/ -  |
| c.    | Medical attendant                                     | Rs.2,000/ -  |
| d.    | Medical expenses                                      | Rs.17,000/ - |
| e.    | Disability                                            | Rs.30,000/ - |
| TOTAL |                                                       | Rs.78,500/ - |

7. As per Ex.A.4-Original Discharge summary issued by New City Hospital, the appellant-claimant suffered injury to right foot, injury to right thigh and right region. X-ray shows fracture of metatarsus 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup>. For the said injuries, the Tribunal granted compensation of Rs.4,500/-. There is also record to show that the appellant-claimant suffered fracture to metatarsus

and for the said injury, the Tribunal awarded an amount of Rs.20,000/-. Further, the Tribunal granted Rs.5,000/- towards pain and suffering, extra nourishment and transportation. It is the contention of the appellant-claimant that she lost one academic year, i.e., Intermediate II year, due to the injuries suffered by her in the subject accident and that no amount was granted by the Tribunal for the same. As per the evidence on record, the appellant-claimant was 17/18 years old studying intermediate II year, as on the date of accident. When there is loss of one academic year, some amount is required to be awarded for the same. Hence, an amount of Rs.10,000/- is granted to the appellant-claimant towards compensation for the loss of study of one academic year. Further, grant of compensation of Rs.24,500/- for the injuries suffered by the appellant-claimant is on lower side. Therefore, the same is enhanced to Rs.36,000/-. As far as grant of compensation towards, pain, suffering, extra nourishment, transportation, medical attendant and disability are concerned, the same is just and reasonable.

It is contended by the learned counsel for the appellant that though the appellant-claimant spent more than Rs.60,000/- towards medical expenses, the Tribunal granted only Rs.17,000/- for the same. Admittedly, the appellant-claimant had not filed requisite receipts to show that she incurred medical expenses of Rs.60,000/-. In view of the same, the Tribunal is justified in granting Rs.17,000/- towards medical expenses and there is nothing to take a different view. Accordingly, the

appellant-claimant is entitled for a compensation of Rs.1,00,000/-, as detailed below.

|       |                                                       |                |
|-------|-------------------------------------------------------|----------------|
| 1.    | Injuries                                              | Rs.36,000/ -   |
| b.    | Pain and suffering, extra nourishment, transportation | Rs.5,000/ -    |
| c.    | Medical attendant                                     | Rs.2,000/ -    |
| d.    | Medical expenses                                      | Rs.17,000/ -   |
| e.    | Disability                                            | Rs.30,000/ -   |
| f.    | Loss of one academic year                             | Rs.10,000/ -   |
| TOTAL |                                                       | Rs.1,00,000/ - |

8. The Tribunal granted interest @ 9% per annum on the amount granted as compensation from the date of petition till the date of deposit. Having regard to the facts and circumstances of the case, this Court deems it appropriate to grant interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation.

9. Accordingly, this appeal is allowed in part, modifying the order, dated 19.01.2004, passed in O.P.No.811 of 2000 by the Tribunal, enhancing the compensation payable to the appellant-claimant from Rs.78,500/- to Rs.1,00,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of application till realisation. The other terms of the Order under challenge remain unaltered. On deposit of the compensation, the appellant-claimant is permitted to withdraw the entire compensation amount with interest accrued thereon.

Miscellaneous Petitions pending, if any, shall stand closed.

There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

30<sup>th</sup> July, 2018  
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