

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A No. 2929 of 2009

JUDGMENT:

This is an appeal filed under Section 173 of the Motor Vehicles Act, 1988, aggrieved by the impugned order dated 08.10.2001 passed in M.V.O.P. No.880 of 1998 by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, at Warangal.

2. Brief facts of the case are that the petitioners 3 to 8 are the minors represented by petitioner No.2. Originally, the petitioner No.1 Bhukya Shankar has filed the O.P. claiming compensation of Rs.1,30,000/- on account of the injuries suffered by him in a motor vehicle accident that occurred on 01.07.1998. Petitioner No.1-Bhukya Shankar died during the pendency of the petition, and his legal representatives were brought on record vide Order dated 19.11.1999 in I.A.No.751 of 1999. The claim of the petitioner No.1 was on account of the injuries he sustained in the accident. Since the petitioner No.1 died during the pendency of the petition, the Tribunal, on consideration of the evidence of witnesses PWs.1 and 2, Exs.A1 to A5; and Exs.B1 and B2, has awarded compensation of Rs.50,000/- towards prolonged treatment undergone by him and also for the injuries sustained by him in the accident. The observations of the trial Court are as under:

“In the instant case, the deceased petitioner was completely bedridden and he was shifted from Mahabubabad hospital to MGM Hospital and after prolonged treatment, he could not recover from the injuries and died and it is also a fact that after the death of the deceased, no postmortem examination was conducted. That ground is not sufficient to throw out the case of the petitioners. The illiterate petitioners having waited for long time for the survival

of the deceased. Ultimately, they lost the deceased and they were impleaded themselves as petitioners 2 to 8.

The prolonged treatment and the condition of the deceased clinchingly proves that the petitioners herein must have spent a huge amount. The deceased succumbed to injuries six months after the accident. Hence, I am of the considered view that the petitioners must have incurred an expenditure not less than Rs.50,000/-."

3. Heard Sri A. Prabhakar, learned counsel for the appellants-petitioners; and Ms. B. Naga Sai Lakshmi, learned counsel for the respondent-insurance company.

4. Learned counsel for the appellants-petitioners submits that the Tribunal, having observed that the deceased was completely bedridden and was shifted from Mahabubabad Hospital to MGM Hospital and even after prolonged treatment he could not recover from the injuries and died, ought to have granted higher compensation, but the Tribunal has granted Rs.50,000/- as compensation and, therefore, sought for enhancement of compensation.

5. The observations of the Tribunal would clearly indicate that the deceased petitioner No.1 was completely bedridden and he had undergone prolonged treatment and within six months he succumbed to the injuries. No doubt, the Tribunal has not granted any compensation on account of the death of the deceased, but however, the Tribunal has taken into consideration the fact of the petitioner receiving injuries, and basing on the injury certificate and the time taken for treatment, granted compensation. It is a fact that the petitioner No.1 has received two grievous injuries and three simple injuries as per the injury certificate

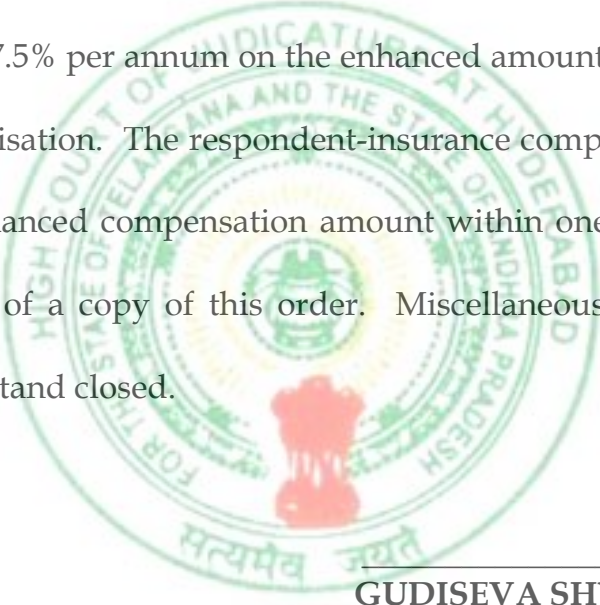
Ex.P3. The petitioner No.1 admittedly is a labourer working as a rickshaw puller. He has seven dependents and out of them petitioners 3 to 8 are minors and petitioner No.2 is the wife.

6. This is a peculiar case. The death occurred six months after the accident. Unfortunately, the claimants could not file the death certificate or PME to prove the cause of death. The insurance company has neither denied the death of deceased nor produced any evidence to show that the death did not occur due to the injuries. However, the claimants have not claimed any compensation on account of death. Their claim was only for the injuries received by the deceased in the accident, and the expenditure incurred by them. It is evident that the deceased suffered grievous and simple injuries and lived for six months. The Tribunal has awarded Rs.50,000/- toward the compensation claimed by the legal representatives of the deceased on account of the nature of prolonged treatment undergone by the deceased. The observations of the Tribunal would definitely reveal that the deceased had undergone prolonged treatment for the injuries and at last died. In the absence of any contra evidence produced by the insurance company, it can be understood that the deceased has undergone treatment for a long period. The expenditure must have been borne by the legal representatives of the deceased.

7. At the time of accident, the deceased was working as a rickshaw puller. He was aged about 32 years. The legal representatives of the deceased have incurred medical expenditure for his prolonged treatment for a period of six months. Though they could not produce any medical bills for the treatment undergone by the deceased, yet it is evident that his

death occurred six months after the accident. The Tribunal has awarded Rs.50,000/- notionally only for the prolonged treatment undergone by him for six months. However, keeping in view the facts and circumstances of this case, the claimants are entitled for compensation under various Heads like medical expenditure, attendant charges, transport charges, hospital charges etc, and therefore it would meet the ends of justice if an amount of Rs.1,00,000/- is awarded.

8. **IN THE RESULT**, the appeal is partly allowed by enhancing the compensation from Rs.50,000/- to Rs.1,00,000/- with proportionate costs and interest at 7.5% per annum on the enhanced amount, from the date of petition till realisation. The respondent-insurance company is directed to deposit the enhanced compensation amount within one month from the date of receipt of a copy of this order. Miscellaneous petitions, if any pending, shall stand closed.



GUDISEVA SHYAM PRASAD, J

21st June, 2018

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