

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3720 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.45,000/- with proportionate costs and interest at 9% per annum from the date of petition till the date of deposit, as against a claim of Rs.2,00,000/-, by the learned II Additional Metropolitan Sessions Judge, Hyderabad – cum – XVI Additional Chief Judge – cum – Motor Accident Claims Tribunal, Hyderabad (for short, “the Tribunal”) *vide* order, dated 19.09.2005, passed in O.P.No.1570 of 2003.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant, the learned Standing Counsel for R.T.C. appearing for the respondents, and perused the record.

3. Learned counsel for the appellant/claimant would contend that the claimant suffered grievous injuries; that as per the evidence of P.W.2 – Doctor, the claimant suffered 25% disability, but the Tribunal considered the disability as only 10%; that there are medical bills to a tune of Rs.25,000/-, but the Tribunal granted only Rs.15,000/- towards medical expenses; that the Tribunal awarded the total compensation of Rs.45,000/- as against the claim of Rs.2,00,000/- which is meagre, and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel for the respondents would contend that no disability certificate was filed

to assess the disability of the claimant as 25%; that the Tribunal is justified in granting Rs.15,000/- towards medical expenses; that the award of compensation by the Tribunal is based on the evidence on record and there is no infirmity in the finding of the Tribunal; that there is nothing to take a different view and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel on both sides, 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 in a motor vehicle accident that occurred on 04.05.2003 due to the rash and negligent driving of the driver of A.P.S.R.T.C. Bus bearing No.AP 11 Z 1810. The only dispute is with regard to award of compensation by the Tribunal. Admittedly, P.W.2 – Doctor did not speak about the genuineness of Ex.A-6 – medical bills to a tune of Rs.24,708-13 ps. The Tribunal, while dealing with the award of medical expenses, took the prescriptions into consideration and awarded the medical expenses. There is justification on the part of the Tribunal in doing so. As far as the grant of compensation on account of 25% disability is concerned, no certificate from the competent Medical Board was taken by the claimant and produced before the Tribunal. P.W.2 is the Doctor, who spoke the restricted movements of the claimant. Considering the same, the Tribunal is justified in taking the disability of the claimant as 10%. As per the evidence of P.W.1 -claimant and P.W.2 – Doctor, the claimant suffered injuries to cervical spine,

right shoulder, arm and right leg and he was treated conservatively. The Tribunal also pointed out that the injuries would not affect the nature of occupation of the claimant i.e., running a wine shop. The Tribunal granted an amount of Rs.25,000/- for pain and suffering and Rs.5,000/- towards disability suffered by the claimant. When the disability is considered at 10%, award of Rs.5,000/- towards disability is on lower side. Considering this aspect, the claimant is entitled for an amount of Rs.15,000/- towards the disability suffered by him instead of Rs.5,000/-. Thus, in all, the claimant is entitled for a compensation of Rs.55,000/- (Rupees fifty five thousand only). No variation is warranted on other aspects of the case.

7. Accordingly, this appeal is allowed in part modifying the order, dated 19.09.2005, passed in O.P.No.1570 of 2003 by the Tribunal, enhancing the compensation from Rs.45,000/- to Rs.55,000/-. 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 : 28.08.2018
AMD

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