

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3488 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.13,000/- with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.2,00,000/-, by the learned Chairman, Motor Accident Claims Tribunal – cum – VII Additional District Judge (Fast Track Court), Nizamabad at Bodhan (for short, “the Tribunal”) *vide* order, dated 06.07.2005, passed in M.V.O.P.No.275 of 2000.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant and the learned Standing Counsel for the Oriental Insurance Company Limited appearing for respondent No.2, and perused the record.

3. Learned counsel for the appellant/claimant would contend that the claimant suffered one grievous injury and a simple injury, but the Tribunal granted only Rs.13,000/- as against a 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 appearing for the Oriental Insurance Company Limited representing respondent No.2 would contend that the Tribunal had taken all the factors into consideration and granted compensation of Rs.13,000/-, which is just and reasonable; that there are no circumstances to interfere

with the impugned order and ultimately, prayed to dismiss the appeal.

5. In the instant case, the evidence of P.W.2 – Dr. L. Ramulu is that the appellant sustained fracture to neck femur left. There is no dispute with regard to the appellant suffering the said injury in a motor accident that occurred on 10.01.2000 due to the rash and negligent driving of the driver of motor cycle bearing No.AP-25-F-2990. Ex.A-5 is Disability Certificate issued by P.W.2. No X-ray was obtained at the time of issuing Ex.A-5. Further, there is long gap between the date of accident and the date of issuing Ex.A-5. P.W.2 is not in the habit of maintaining any records for issuing the disability certificates. No other witness was examined to prove the injuries. This Court and the Tribunal at Nizamabad held that Dr. L.Ramulu, who is P.W.2 herein, was in the habit of exaggerating the injuries and issuing certificates. In these circumstances, no credibility can be given to the evidence of P.W.2. However, the Tribunal considered the entire evidence and granted a compensation of Rs.10,000/- for the grievous injury and an amount of Rs.3,000/- for pain and suffering and in all, granted Rs.13,000/-. The Tribunal is justified in granting the compensation of Rs.13,000/- with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of realisation for the grievous injury suffered by the claimant. There are no merits to enhance the compensation. The appeal is devoid of merit and is liable to be dismissed.

6. Accordingly, this appeal is dismissed. There shall be no order as to costs.

7. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 14.08.2018
AMD



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