

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2570 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.20,000/- as against a claim of Rs.1,00,000/- by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Adilabad ('the Tribunal' for brevity), vide order, dated 18.07.2005, passed in O.P.No.139 2005, 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 both sides and perused the record.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant suffered multiple fractures in the subject accident. He was bedridden for a considerable period. The Tribunal awarded a lump sum compensation of Rs.20,000/-. The Tribunal did not grant any amount on other heads and ultimately prayed to enhance the compensation.

4. On the other hand, the learned counsel for the respondent/owner of the offending vehicle would contend that the Tribunal had taken all the relevant factors into consideration and granted just and reasonable amount as compensation. No medical bills are filed to show that the appellant-claimant incurred medical expenses. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal by confirming the Order under Challenge.

5. It is not in dispute that the appellant-claimant suffered injuries in the motor accident occurred on 18.03.2004, due to rash and negligent driving of the driver of the Tractor bearing registration No.AP-01-T-7569. The only point that arises for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation as claimed.

6. To substantiate his claim, the appellant-claimant himself deposed as P.W.1 and got marked Ex.A.1-Attested copy of FIR in Crime No.19/04 of Bazarhathnoor PS, Ex.A.2-Attested copy of Medical Certificate of P.W.1, Ex.A.3-Original discharge card of Government Medical College Hospital, Yeothmal, Ex.A.4-Attested copy of charge sheet filed by the Police, Bazarhathnoor Police Station, Ex.A.5-Attested copy of R.C. Book and Ex.A.6-Attested copy of driving licence of tractor driver. No oral or documentary evidence has been adduced behalf of the respondent.

7. Ex.A.2 is the attested copy of Injury Certificate issued by the Civil Assistant Surgeon, District Headquarters Hospital, Adilabad, which reveals that the appellant-claimant sustained fracture of shaft of femur and fracture of upper 1/3rd left Tibia-fibula. The said injuries were described as grievous in nature. It is also mentioned in Ex.A.2 that the appellant-claimant left the hospital against medical advice on 20.03.2004. Thereafter, the appellant-claimant took treatment from Dr.Vasanth Rao Naik of Government Medical College, Yeothmal, for the fractures sustained by him. The said fact is supported by Ex.A.3- Discharge Card of Government Medical College Hospital, Yeothmal. The Tribunal, considering the injuries suffered by the appellant-claimant and the treatment taken by him, granted an amount of

Rs.20,000/-. Under these circumstances, it can be held that the petitioner is entitled for Rs.20,000/- for the injuries suffered by him in the subject accident. In view of the injuries sustained by the appellant-claimant, he would not have worked for six months. Hence, this Court deems it appropriate to grant an amount of Rs.9,000/- towards loss of earnings. Further, an amount of Rs.6,000/- is awarded towards extra nourishment, transportation, attendant and other incidental expenses. In all, the appellant-claimant is entitled for a compensation of Rs.35,000/- with interest @ 7.5% per annum on the enhanced compensation from the date of petition till realisation.

8. Accordingly, this appeal is allowed in part, modifying the order, dated 18.07.2005, passed in O.P.No.139 of 2005 by the Tribunal, enhancing the compensation from Rs.20,000/- to Rs.35,000/- with interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation. On deposit of the enhanced compensation, the appellant-claimant is permitted to withdraw the entire amount along with the interest accrued thereon. Other terms of the Order under challenge remain unaltered.

Miscellaneous Petitions pending, if any, shall stand closed.
There shall be no order as to costs.

20th July, 2018
Bvv

Dr. SHAMEEM AKTHER, J