

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.NO.1347 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant under Section 173 of the M.V. Act, aggrieved by the order, dated 14.06.2004, in O.P.No.582 of 2000, passed by the Motor Accident Claims Tribunal-cum-II Addl. District Judge, Nalgonda, for enhancement of compensation.

2. Heard learned counsel for the appellant-claimant, the learned standing counsel for the Insurance Company and perused the record.

3. Learned counsel for the appellant-claimant would submit that the appellant was 45 years old and was a business man and earning Rs.4,000/- per month. The Tribunal had taken the age of the appellant as 50 years, his earning as Rs.1500/- per month and granted compensation of Rs.1,70,000/- towards loss of earnings, which is not in consonance with the evidence on record. Further, as the appellant suffered grievous injuries, his life was considerably affected and so, the Tribunal ought to have granted compensation of Rs.3,00,000/- as claimed.

4. On the other hand, learned standing counsel for the respondent- Insurance Company would submit that the Tribunal after taking all factors into consideration, awarded just and reasonable compensation. There are no circumstances to interfere with the same.

5. In view of submissions made by both sides, the point for determination is whether the appellant is entitled for enhancement of compensation?

6. The contention of the appellant is that he was 45 years old on the date of the accident and his monthly earnings was Rs.4,000/- as he was letting out centering material. The appellant did not file any register or receipts or any document to show that his monthly income was Rs.4,000/-. Further, the appellant did not file any certificate to show his age. However, there is no doubt that the appellant was an earning member and suffered injuries. The appellant suffered injuries on 14.12.1999 due to rash and negligent driving of Maruti Car bearing No. AP 24 E 5031 by its driver. The same is borne by the record and evidence. There is also specific evidence of the doctor that the appellant lost the pleasure of sexual life due to accidental injuries. The appellant has not filed date of birth certificate or any document to substantiate his age. Therefore, the Tribunal had rightly taken his age as 50 years. But, considering the totality of the circumstances, taking monthly income of the appellant as Rs.1500/- when he was letting out centering material, appears to be on lower side. Therefore, it is appropriate to take the monthly income of the appellant as Rs.2,500/- and assess the compensation payable to the appellant. Since the appellant is 50 years old, the suitable multiplier is 13. Therefore, the loss of earnings caused to the appellant is Rs.2,500/- X 12 X 13 X 30%, which comes to Rs.1,17,000/-. The appellant is entitled to entire amount towards loss of income. Besides the above amount, the appellant is entitled to Rs.1,00,000/- towards medical expenses and extra-nourishment etc., which was already granted by the Tribunal. Therefore, in all, the appellant is entitled to compensation of Rs.2,17,000/-.

7. In the result, the compensation awarded by the Tribunal is enhanced from Rs.1,70,000/- to Rs.2,17,000/- with interest at 9% p.a. from the date of petition till the date of realization. On deposit, the appellant is permitted to withdraw the entire amount. There is no change in the other conditions/directions passed by the Tribunal in the impugned order.

8. Accordingly, this appeal is partly allowed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DATED: 05-06-2018
Hsd

DR.SHAMEEM AKTHER, J

