

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1669 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-claimant aggrieved by the order dated 05.02.2005 in O.P.No.945 of 2004 on the file of the Motor Accident Claims Tribunal-cum-X Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad (for short, 'the Tribunal').

2. Heard the learned counsel for the appellant-claimant, the learned Standing Counsel for respondent No.2-Insurance Company and perused the record. No representation for respondent No.1.

3. Learned counsel for the appellant-claimant would contend that the appellant suffered grievous and simple injuries. The Tribunal granted only Rs.10,000/- for the injuries, pain and suffering and also granted meagre amount towards compensation and ultimately prayed to enhance the same.

4. Learned Standing Counsel appearing for the respondent-Insurance Company would contend that the Tribunal justified in granting the compensation of Rs.26,000/- under different heads. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal.

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

6. There is no dispute with regard to the appellant-claimant suffering injuries in a motor accident that occurred on 06.12.2003 due to the rash and negligent driving of the driver of NEKRTC bus bearing No.KA 38 2913. The only dispute is with regard to the quantum of compensation.

7. As seen from the evidence of P.W.1, X-ray, wound certificate, and medical bills of the appellant, the appellant suffered injuries to chin, left Tibia and on head. As per Ex.A11-X-ray films, there was fracture over the upper end of the tibia of the left leg. It goes to show that the appellant suffered one grievous injury and two simple injuries. The Tribunal has granted Rs.5,000/- towards loss of earnings, Rs.1,000/- towards transport charges, Rs.5,000/- towards medical expenses and Rs.5,000/- towards extra nourishment. The Tribunal justified in granting the said amounts taking into consideration the injuries and consequences arose therefrom. When there is a fracture over the upper end of the tibia of the left leg, the appellant must have suffered a lot of pain and suffering. The Tribunal had granted Rs.10,000/- for the grievous and simple injuries, which is meagre. Hence, the appellant is entitled for a sum of Rs.20,000/- for the injuries, pain and suffering.

8. As regards rate of interest, it is apt to refer to the decision of the Apex Court in Dharampal Vs. State Road Transport Corporation¹, wherein, the Apex Court awarded interest @ 7.5% per annum on the amount awarded as

¹ MANU SC 7680 2008

compensation. In view of the same, awarding interest @ 6% per annum is on lower side.

9. Accordingly, this appeal is allowed in part modifying the order, dated 05.02.2005 passed by the Tribunal in O.P.No.945 of 2004, enhancing the compensation from Rs.26,000/- to Rs.36,000/- with interest @ 7.5% per annum on the entire amount of compensation from the date of petition till the date of deposit. The other terms of the order under challenge remain unaltered. On deposit of the enhanced compensation, the appellant-claimant is permitted to withdraw the entire amount with interest accrued thereon.

The Miscellaneous Petitions, if any, pending shall stand closed. No costs.

Date: 16.08.2018
ssp

Dr. SHAMEEM AKTHER, J

