

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1976 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.1,70,000/- as against a claim of Rs.5,00,000/-, vide order, dated 23.07.2004, passed in O.P.No.378 of 2002 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Warangal, ('the Tribunal', for brevity), the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), seeking enhancement of compensation.

2. Despite listing this matter under the caption "For Orders", there is no representation for both sides. Earlier, the matter underwent as many as nine adjournments at the request of the learned counsel for the appellant, and for four adjournments there was no representation on either side. This appeal is of the year 2005. Hence, this appeal can be disposed on merits, basing on the material available on record, without waiting for both the learned counsel to advance arguments.

3. In the grounds of appeal, the appellant-claimant contended that the findings of the Tribunal are contrary to the facts and circumstances of the case. The Tribunal did not consider the disability and the other losses suffered by the appellant-claimant in the subject accident occurred on 13.01.2002. The Tribunal granted a meagre compensation of Rs.1,70,000/- as against a claim of Rs.5,00,000/- and ultimately prayed to enhance the compensation as claimed.

4. In view of the above, the point that arises for determination in this appeal is whether the appellant-claimant is entitled for enhancement of compensation as claimed.

5. As per the material placed on record, the appellant-claimant suffered injuries in the subject accident occurred on 13.01.2002, due to rash and negligent driving of the driver of the auto bearing registration No.AP-36-U-196. Initially, the appellant-claimed a compensation of Rs.1,25,000/- and subsequently, it was enhanced to Rs.5,00,000/-. As per the evidence of P.W.3-Dr.M.Nageshwar Rao, Assistant Professor of Orthopaedic Department, M.G.M. Hospital, Warangal, the appellant-claimant was admitted in M.G.M. Hospital, Warangal, on 13.01.2002 with an abrasion over right knee and right foot and comminuted fracture of shaft femur (3 fragments); the appellant-claimant underwent operation on 18.01.2002 with intra-medullary nailing and he was discharged on 02.03.2002. The Regional Medical Board issued disability certificate under Ex.X.2 stating that the appellant-claimant sustained 50% disability due to the accidental injuries. P.W.3 further opined that the appellant-claimant may have limping, difficulty in bending the knee joint and sitting on the ground.

6. The Tribunal, taking into consideration the nature of injuries suffered by the appellant-claimant and the consequences arose therefrom, awarded an amount of Rs.8,640/- towards purchase of ring fixatory set for operation, Rs.8,000/- towards medical expenses, Rs.8,000/- towards loss of earnings,

Rs.1,22,400/- towards disability, Rs.5,000/- for the operation undergone by him, Rs.5,000/- towards attendant charges, Rs.5,000/- towards extra-nourishment and transportation charges and Rs.7,960/- towards pain and suffering. In all, the Tribunal granted a compensation of Rs.1,70,000/- with interest @ 9% per annum from the date of petition till realisation. The Tribunal is justified in granting the said compensation in favour of the appellant-claimant. In the facts and circumstances of the case, there is nothing to take a different view. There are no circumstances to enhance the compensation. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed. No costs.

Pending Miscellaneous petitions, if any, shall stand closed.

05th September, 2018
Bvv

Dr. SHAMEEM AKTHER, J

