

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2354 of 2005

JUDGMENT:

Disagreeing with the quantum of compensation of Rs.23,500/- awarded by the Motor Accident Claims Tribunal-cum-VII Additional District Judge, Guntur, *vide* order, dated 29.03.2005, passed in M.V.O.P.No.409 of 2002, as against the total claim of Rs.50,000/-, the claimant preferred this appeal under Section 173 of the Motor Vehicle's Act, 1988 ('the Act', for brevity) for enhancement of compensation.

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

3. Learned counsel for the appellant-claimant would contend that the appellant-claimant suffered grievous and simple injuries and he incurred huge medical expenses. The compensation granted by the Tribunal is meagre and ultimately prayed to enhance the same as claimed.

4. On the other hand, learned counsel for the respondent would contend that the Tribunal had calculated and awarded compensation on all heads. The compensation granted by the Tribunal is just and reasonable. There are no circumstances to interfere with the compensation and ultimately prayed to dismiss the appeal.

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

6. As per the oral and documentary evidence, the appellant-claimant suffered the following injuries:

1. Swelling of left foot on the dorsum, multiple small abrasions on the dorsum of left foot.
2. Tenderness of left shoulder, restricted movements.
3. Abrasion on the right forearm of size 4 x 1 cm red in colour.
4. Abrasion below the right knee of size 4 x 1 cm red in colour.

Ex.A3-certified copy of wound certificate shows that x-ray of chest and x-ray of left shoulder were taken and no bony injury was found, but X-ray of left foot shows fracture noted in lower 1/3rd region of left fibula, which is grievous in nature. So, it goes to show that the appellant-injured suffered one grievous injury and three simple injuries. The compensation granted by the Tribunal is mentioned hereunder:

Grievous injury	Rs.5,000/-
Simple injuries	Rs.3,000/-
Loss of earnings	Rs.13,500/-
Medical expenses	Rs.2,000/-
Total	Rs.23,500/-

7. There is ample evidence to show that the appellant-injured suffered the above mentioned injuries due to rash and negligent driving of the driver of the lorry bearing No.AAN 6694 on 22.02.2002. The evidence of P.W.2-doctor, who is an Assistant Professor in Orthopaedic shows that the appellant-injured was admitted in hospital on 22.02.2002 and was discharged on 06.03.2002. His evidence also shows that he found restriction in movements of left ankle of appellant-injured and assessed the disability at 15%. The Tribunal taking the

income of the appellant as Rs.15,000/- per annum, after applying the multiplier '18', granted compensation of Rs.13,500/- towards 5% disability. Taking into consideration the evidence of P.W.2-doctor and the pain and suffering undergone by the injured, this Court is inclined to enhance the same to Rs.20,000/- towards disability. The amount of Rs.8,000/- granted towards injuries is enhanced to Rs.15,000/- and an amount of Rs.2,000/- granted towards medical expenses is enhanced to Rs.7,000/-. In all, the appellant-claimant is entitled for a total compensation of Rs.42,000/- (Rs.20,000/- + Rs.15,000 + Rs.7,000/-).

8. Accordingly, this appeal is allowed in part modifying the order, dated 29.03.2005, passed by the Tribunal in M.V.O.P.No.409 of 2002, enhancing the compensation from Rs.23,500/- to Rs.42,000/-. The enhanced compensation carries interest @ 7.5% per annum from the date of petition till the date of deposit. On deposit of the compensation, the appellant-claimant is permitted to withdraw the entire amount with interest.

Miscellaneous Petitions pending, if any, shall stand closed.

There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

28th June, 2018
ssp