

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3402 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/claimant aggrieved by the grant of compensation of Rs.25,000/- as against a claim of Rs.1,00,000/-, by the learned Chairman, Motor Accident Claims Tribunal – cum – III Additional District Judge (I Fast Track Court) at Nalgonda (for short, “the Tribunal”) *vide* order, dated 21.06.2004, passed in O.P.No.176 of 2001.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant and the learned Standing Counsel for the United India Insurance Company Limited appearing for respondent No.2, and perused the record.

3. Learned counsel for the appellant/claimant would contend that the claimant suffered grievous injuries and he was bed ridden for more than six months; that the claimant filed number of documents to prove the injuries and the treatment taken by him and also his leave entry in the service book, but the Tribunal granted only an amount of Rs.25,000/- as against a claim of Rs.1,00,000/-, which is meagre, and ultimately, prayed to allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel for the United India Insurance Company Limited appearing for respondent No.2 would contend that the Tribunal had elaborately dealt with the subject matter of the impugned O.P. and granted just and

reasonable compensation; that there are no X-ray reports to prove the injuries sustained by the claimant; that the Tribunal had taken all the factors into consideration and rightly assessed the compensation at Rs.25,000/-, which is just and reasonable; that there are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both the counsel, the short point that falls for determination is:

“Whether the appellant/claimant is entitled for enhancement of compensation?”

6. **POINT:-** As per the material placed on record, the claimant was a Government Servant working in Primary Health Centre, Tripuraram. He filed Ex.A-7 – copy of earned leave entry in his service book. As per Ex.A-7, the claimant was on medical leave for 185 days. The Tribunal had granted an amount of Rs.12,000/- for fracture of mandible and a sum of Rs.10,000/- for the fracture of left hand under the head of pain and suffering, and also an amount of Rs.3,000/- towards treatment, medicines and transportation. The Tribunal ought to have granted some amount towards loss of earnings. The subject accident occurred on 17.11.2000. The claimant did not specify the nature of job he was doing in the Primary Health Centre. As per the records, he was a Government employee in Primary Health Centre, Tripuraram. Considering the same, an amount of Rs.9,000/- is granted towards loss of earnings for a period of six months i.e., at the rate of Rs.1,500/- per month. In all, the claimant is entitled for a compensation of Rs.34,000/- (Rupees thirty four thousand only)

(i.e., Rs.25,000/- + Rs.9,000/-). The Tribunal awarded interest at the rate of 9% per annum on the amount granted as compensation from the date of petition till the date of deposit of amount. As per the settled legal position, the appellant/claimant is entitled for interest at the rate of 7.5% per annum on the enhanced amount of compensation.

7. Accordingly, this appeal is allowed in part modifying the order, dated 21.06.2004, passed in O.P.No.176 of 2001 by the Tribunal, enhancing the compensation from Rs.25,000/- to Rs.34,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. On deposit of the compensation, the appellant/claimant is permitted to withdraw the entire amount along with the accrued interest. There is no change in the other directions given by the Tribunal. There shall be no order as to costs.

8. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 24.07.2018
AMD

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