

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.Nos.828 of 2006 & 956 of 2006

COMMON JUDGMENT:-

Since the facts of the case, issues involved, parties and the Award under challenge in both these appeals are one and the same, both these appeals are being disposed of by this common judgment.

2. Challenging the award dated 13.12.2005 passed in O.P.No.1558 of 2001 by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Nizamabad ('the Tribunal', for brevity), the claimant preferred M.A.C.M.A.No.828 of 2006 seeking enhancement of compensation and the Oriental Insurance Company Limited preferred M.A.C.M.A.No.956 of 2006 seeking to set aside the impugned Award.

3. Heard the learned counsel for both sides and perused the record. For convenience, the parties will be hereinafter referred to as per their array before the Tribunal.

4. The learned counsel for the appellant in MACMA No.828 of 2006 and 1st respondent in MACMA No.956 of 2006 (claimant) would contend that the Tribunal had granted meagre amount as compensation. There is ample evidence on record to substantiate that the claimant suffered grievous injuries in the subject road accident due to rashness or negligence on the part of the driver of the lorry bearing registration No.MP-23-D-5357. The Tribunal granted small amounts towards injuries and other

heads and ultimately prayed to enhance the compensation as claimed.

5. On the other hand, the learned Standing Counsel for the Oriental Insurance Company Limited representing the appellant in MACMA No.956 of 2006 and 2nd respondent in MACMA No.828 of 2006 would submit that the Tribunal granted an amount of Rs.4,84,711/- towards compensation with interest @ 9% per annum from the date of petition till realisation, which is excessive and ultimately prayed to set aside the impugned order.

6. In view of the above rival contentions, the only point that arises for consideration in both these appeals is whether the claimants are entitled for enhancement of compensation or whether the compensation awarded by the Tribunal is on higher side?

7. It is not in dispute that the claimant suffered injuries in a motor accident occurred on 24.04.2001, due to rash and negligent driving of the driver of the lorry bearing registration No.MP-23-D-5357. The Tribunal, while dealing with the subject mater, held that there was shortening of right leg of the claimant by one and half inch due to the injuries suffered by him in the subject accident. Though P.W.2-Dr.Chandrasekhar deposed that the claimant suffered 40% permanent partial disability, no certificate was produced to prove the same. Further, the claimant was not examined by a competent Medical Board to assess the disability suffered by him due to the injuries suffered

by him in the subject accident. The Tribunal granted a compensation of Rs.1,00,000/- towards permanent disability, Rs.50,000/- towards pain and suffering, Rs.1,54,711/- towards medical expenses, Rs.60,000/- towards transportation and other incidental charges and Rs.1,20,000/- towards loss of earnings. In all, the Tribunal granted a compensation of Rs.4,84,711/- with interest at the rate of 9% per annum from the date of petition till realisation.

8. As per Ex.A.3-Certified Copy of the Wound Certificate, the claimant suffered fracture of femur, crush injury to upper part of thigh and incision of joint, bruise right side. The claimant was procuring toddy and selling the same. The Tribunal had taken all the factors into consideration, assessed and granted compensation. The Tribunal had granted Rs.1,00,000/- towards permanent disability suffered by the claimant, in view of the nature of injuries and shortening of the right leg of the claimant by one and half inch, as the claimant was a toddy-tapper. The findings of the Tribunal are based on record. The Tribunal had granted just and reasonable amount as compensation in the facts and circumstances of the case. There is nothing to take a different view and enhance the compensation.

9. Admittedly, the Tribunal granted interest at the rate of 9% per annum from the date of petition till deposit or realisation, on the amount granted as compensation. 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 at the rate of 7.5% per annum on the amount awarded as compensation. There are number of other citations, wherein, interest was awarded at the rate of 7.5% per annum on the amount awarded as compensation. In view of the same, awarding interest at the rate of 9% per annum on the amount awarded as compensation by the Tribunal is held excessive.

10. Accordingly, M.A.C.M.A.No.956 of 2006 filed by the Insurance Company is allowed in part modifying the Order, dated 13.12.2005, passed in O.P.No.1558 of 2001 by the Tribunal, only to the extent of reducing rate of interest from 9% per annum to 7.5% per annum on the amount granted as compensation (Rs.4,84,711/-) from the date of petition till realisation. The other terms of the Order under challenge remain unaltered. M.A.C.M.A.No.828 of 2006 is dismissed. No costs.

Miscellaneous petitions, if any, pending in both these appeals, stand closed.

Dr. SHAMEEM AKTHER, J

23rd July, 2018
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¹ MANU SC 7680 2008