

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3424 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/claimant aggrieved by the quantum of compensation of Rs.61,300/- with proportionate costs and interest at 9% per annum from the date of petition till the date of deposit, as against a claim of Rs.3,00,000/-, by the learned Chairman, Motor Accident Claims Tribunal – cum – IV Additional District Judge (Fast Track Court), Karimnagar (for short, “the Tribunal”) *vide* order, dated 09.09.2005, passed in O.P.No.667 of 2004.

2. Heard the submissions of the learned Standing Counsel appearing for respondent No.2/R.T.C. Though the matter is listed under the caption “For Orders”, there is no representation for the appellant/claimant. On 04.09.2018 also, there was no representation for the appellant. The matter pertains to the year 2005. So, it can be disposed of basing on the material available on record. Perused the material on record.

3. Learned Standing Counsel for respondent No.2/R.T.C. would contend that the claimant suffered grievous and simple injuries and having considered the same, the Tribunal granted compensation of Rs.61,300/- with proportionate costs and interest at 9% per annum from the date of petition till the date of deposit, as against a claim of Rs.3,00,000/-, which is just and reasonable; that there are no circumstances to enhance the compensation as prayed and ultimately, prayed to dismiss the appeal.

4. As seen from the grounds of appeal, the appellant/claimant filed the appeal seeking enhancement of compensation granted by the Tribunal contending that the Tribunal granted meagre compensation though the claimant suffered grievous and simple injuries apart from disability and ultimately, prayed to enhance the compensation.

5. In view of the submissions made by the learned Standing Counsel for respondent No.2, the short point that falls for determination is:

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

6. **POINT:-** There is no dispute with regard to the claimant suffering injuries in a road accident that occurred on 12.01.2004 due to the rash and negligent driving of the driver of R.T.C. Bus bearing No.AP-10-Z-8440. The only dispute is with regard to enhancement of compensation.

7. As per the evidence of P.W.2 – Dr.C.Muralikrishna, the claimant suffered the following injuries:

“1. Compound comminuted fracture of right leg, Tibia and Fibula.

2. Multiple abrasions on right leg.”

P.W.2 had deposed about the treatment taken by the claimant. According to him, the first injury is grievous in nature and the second injury is simple in nature. There is also material on record to substantiate the said injuries. As per the records, particularly, Ex.A-3 – Admission Card issued by Sushrutha Hospital, Siddipet,

the claimant was admitted in Sushrutha Hospital, Siddipet on 12.01.2004, was operated on the same day, another surgery was conducted on 27.01.2004 and discharged from the said hospital on 08.02.2004. There are also medical bills to substantiate the medical expenses. Having considered the same, the Tribunal was pleased to grant an amount of Rs.11,244/- towards loss of earnings for a period of two months i.e., at the rate of Rs.5,622/- per month (net salary), Rs.2,000/- towards extra nourishment, Rs.8,000/- towards purchase of medicines, Rs.32,050/- towards treatment charges and Rs.8,000/- towards pain and suffering. In all, the Tribunal granted an amount of Rs.61,294/- which is rounded to Rs.61,300/-. The accident pertains to the year 2004. There is compound comminuted fracture of right leg, tibia and fibula. In these circumstances, it can be safely concluded that the claimant could not work for a period of six months. Grant of Rs.11,244/- towards loss of earnings for a period of two months is meagre and the same is enhanced to Rs.33,732/- (i.e., Rs.5,622/- x 6). Further, the Tribunal granted lesser amount of Rs.8,000/- towards pain and suffering. Considering the nature of injuries, the same is enhanced to Rs.25,000/- as claimed. The Tribunal is justified in granting compensation on other heads and no variation is warranted. In all, the claimant is entitled for a compensation of Rs.1,00,782/- and the same is rounded to Rs.1,01,000/- (i.e., Rs.33,732/- + Rs.2,000/- + Rs.8,000/- + Rs.32,050/- + Rs.25,000/-) (Rupees one lakh one thousand only).

8. Accordingly, this appeal is allowed in part modifying the order, dated 09.09.2005, passed in O.P.No.667 of 2004 by the Tribunal, enhancing the compensation from Rs.61,300/- to

Rs.1,01,000/-. 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.

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

Date : 18.09.2018
AMD

DR.JUSTICE SHAMEEM AKTHER

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



M.A.C.M.A.No.3424 OF 2005

Date: 18.09.2018

AMD