

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3612 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.17,000/- with proportionate costs and interest at 6% per annum from the date of petition till the date of realisation, as against a claim of Rs.1,00,000/-, by the learned VI Additional District and Sessions Judge (Fast Track Court), Krishna at Machilipatnam (for short, "the Tribunal") *vide* order, dated 26.04.2005, passed in M.V.O.P.No.366 of 2002.

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

3. Learned counsel for the appellant/claimant would contend that the claimant suffered seven injuries out of which five injuries are grievous in nature and due to the grievous injuries, he suffered 20% disability, but the Tribunal has not considered the same and awarded the total compensation of Rs.17,000/- only as against a claim of Rs.1,00,000/-, which is meagre; that no compensation was granted by the Tribunal towards other heads and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel for the New India Assurance Company Limited appearing for respondent No.2 would contend that the Tribunal is justified in granting a total compensation of Rs.17,000/-; that no medical record was filed

except Ex.A-2 – certified copy of wound certificate and the Tribunal had taken all the factors into consideration and rightly assessed the compensation at Rs.17,000/- with proportionate costs and interest at 6% per annum from the date of petition till the date of realisation, as against a claim of Rs.1,00,000/-, 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:-** There is no dispute with regard to the claimant suffering injuries in a road accident that occurred on 16.12.2001 due to the rash and negligent driving of the driver of lorry bearing No.AP.15.V.151. The only dispute is with regard to enhancement of compensation.

7. There is evidence of P.W.1/injured that he suffered seven injuries. Out of them, injury to the left shoulder is a fracture and it is a grievous one. The same is substantiated by the claimant by filing Ex.A-2 – wound certificate. The Tribunal, having examined Ex.A-2, held that the claimant suffered one grievous injury on his left shoulder and six simple injuries. There is nothing to take a different view. Though the contention of the learned counsel for the claimant is that the claimant suffered 20% disability for the fracture of left shoulder, to prove the same, no doctor was examined and no certificate from the competent Medical Board was produced. On this aspect, the Tribunal rightly negated the contention. The Tribunal granted Rs.12,000/- for the grievous injury, Rs.5,000/- for the

simple injuries and in all, granted Rs.17,000/-. No amount was granted by the Tribunal on other heads i.e., the Tribunal ought to have granted some amount towards transportation, extra nourishment and loss of earnings. Hence, the claimant is entitled for an amount of Rs.2,000/- towards transportation, Rs.2,000/- towards extra nourishment and Rs.6,000/- towards loss of earnings. The above calculation is made as per the cost of living prevailing in the year 2001. Thus, the appellant/claimant is entitled for a total compensation of Rs.27,000/- (Rupees twenty seven thousand only) (Rs.12,000/- + Rs.5,000/- + Rs.2,000/- + Rs.2,000/- + Rs.6,000/-).

8. Accordingly, this appeal is allowed in part modifying the order, dated 26.04.2005, passed in M.V.O.P.No.366 of 2002 by the Tribunal, enhancing the compensation from Rs.17,000/- to Rs.27,000/-. 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.

DR.JUSTICE SHAMEEM AKTHER

Date : 30.08.2018
AMD

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