

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2161 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant-claimant aggrieved by the order, dated 11.08.2003, passed in O.P.No.509 of 1999 by the Chairman, Motor Accident Claims Tribunal – cum - District Judge, Nizamabad ('the Tribunal', for brevity), awarding compensation of Rs.4,03,600/-, as against the claim of Rs.5,00,000/-.

2. Heard learned counsel for the appellant.

3. When the matter was listed on 03.07.2018, learned counsel for the appellant was ready. There was no representation for respondent No.1 – insurer. Hence, this case was posted today under the caption 'for orders'. Even today, there is no representation on behalf of respondent No.1 – insurer. Under these circumstances, this appeal can be disposed of basing on the evidence available on record.

4. Learned counsel for the appellant – claimant would submit that the appellant suffered grievous injuries. He has taken treatment in Kamineni Hospital. There is specific evidence of the Doctor with regard to the appellant undergoing multiple operations and also incurring expenditure on treatment. The Tribunal had granted a compensation of Rs.4,03,600/- for the injuries, which is meagre. The Tribunal has not granted any compensation for the loss of earnings. The Tribunal had granted only Rs.1,00,000/- towards pain and

suffering, Rs.50,000/- towards permanent disability and Rs.30,000/- for future medical expenses, which are meagre and ultimately, prayed to enhance the compensation.

5. In view of the submissions, the point for determination is whether the appellant is entitled to enhancement of compensation, as prayed for.

6. The evidence of PW.2 – Dr. M. Kamaraju, who is the Medical Practitioner at Kamineni Hospital, reveals that the appellant got admitted in Kamineni Hospital on 20.12.1998 with type-III fracture of right leg and got operated on 20.12.1998, 28.12.1998, 06.01.1999 and 13.01.1999. The appellant was discharged on 21.01.1999 with an advice that he had to undergo multiple operations like flap cover, bone grafting and may require amputation of right leg below or above the knee. After discharge, the appellant again got admitted in the same hospital on 16.06.1999 and was discharged on 03.07.1999. The appellant underwent plastic surgery in Apollo Hospital before getting admitted in Kamineni Hospital. He has also given details of treatment taken by the appellant.

7. While dealing with the subject matter, the Tribunal granted compensation as stated below:

- “1) Compensation awarded towards permanent disability - Rs.50,000/-
- 2) Compensation awarded towards pain and suffering - Rs.1,00,000/-
- 3) Compensation awarded towards medical expenses, hospital charges, boarding and lodging charges - Rs.2,23,579/-

- 4) Compensation awarded towards
future medical expenses - Rs.30,000/-”

8. There is evidence of the Doctor that the appellant did not work for a period of two years. He was undergoing operations and bed ridden. As per the evidence on record, the appellant was aged 40 years and was an agriculturist. The same can be believed. Therefore, an amount of Rs.50,000/- is granted towards loss of earnings for the period of two years. The Tribunal has granted an amount of Rs.2,23,579/- towards medical expenses, hospital charges, boarding and lodging charges. The same is based on the evidence available on record. No interference is warranted under that score. The appellant suffered permanent disability. The Tribunal had granted Rs.50,000/- on this score. The same also requires no interference. In the process of taking treatment, it is quite natural that the appellant might have spent some amount for extra nourishment. Further, no attendant charges were granted. Taking this into consideration, the appellant is granted an amount of Rs.37,000/- towards extra nourishment and attendant charges. The amounts granted under other heads require no interference. In all, the appellant is entitled to a compensation of Rs.4,90,579/-, which is rounded off to Rs.4,90,000/-.

9. In the result, the appeal is allowed in part enhancing the compensation from Rs.4,03,600/- to Rs.4,90,000/- (Rs.50,000/- + Rs.1,00,000/- + Rs.2,23,579/- + Rs.30,000/- + Rs.50,000/- + Rs.37,000/-). The enhanced amount carries interest at the rate of 7.5% per annum from the date of petition till the date of realization.

There is no change in the other conditions imposed by the Tribunal.
On deposit of the compensation amount, the appellant is permitted to withdraw the same.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

July 10, 2018.
MD

