

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.108 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.16,717/- as against a claim of Rs.1,00,000/- vide order, dated 23.02.2004, passed in O.P.No.1289 of 2001 by the Chairman, Principal Motor Accident Claims Tribunal, Nalgonda ('the Tribunal', for brevity), the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), seeking enhancement of compensation.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellant-claimant would contend that though the appellant-claimant suffered grievous and simple injuries in the subject accident occurred on 13.09.2001, the Tribunal granted meagre compensation of Rs.16,717/- as against a claim of Rs.1,00,000/-. The Tribunal did not grant adequate compensation under different heads and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that the Tribunal had taken all the relevant factors into consideration and granted just and reasonable amount as compensation. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the appellant-claimant sustained injuries in the subject accident occurred on 13.09.2001, due to rash and negligent driving of the driver of the Tipper lorry bearing registration No.AP-24-U-4462. The only point that falls for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation as claimed.

6. As per the evidence of P.W.1 (appellant-claimant) and Ex.A.2-Wound Certificate issued by the Civil Assistant Surgeon, K.N.Hospital, Hill Colony, Nagarjunasagar, the appellant-claimant sustained one laceration over right knee, abrasion and contusion on left eyebrow and loss of tooth. The injury of loss of tooth is grievous in nature. For the said grievous injury, P.W.2-Dr.Vikram Reddy treated the appellant-claimant and issued Ex.A.4-certificate. Ex.A.5 is the bunch of medical bills and prescriptions. Having analysed the evidence on record, the Tribunal granted an amount of Rs.10,000/- for one grievous injury of loss of tooth, Rs.10,000/- for two simple injuries @ 5,000/- per injury, Rs.4,500/- for replacement of tooth, Rs.967/- towards medical expenses, Rs.600/- towards transportation charges and Rs.650/- towards bills issued by Nalgonda Tours & Travels.

7. There is an error in mathematical calculation of the amount awarded as compensation. Though the total of the compensation assessed and awarded by the Tribunal under the aforementioned heads would come to Rs.26,717/-, it was wrongly recorded as Rs.16,717/- in the impugned judgment and the decree of the Tribunal. In view of the same, the appellant-claimant is entitled

for a total compensation of Rs.26,717/- instead of Rs.16,717/-, which is just and reasonable in the facts and circumstances of the case. The Tribunal awarded interest @ 9% per annum on the amount awarded as compensation from the date of petition till the date of deposit/realisation.

8. Accordingly, this appeal is allowed in part, modifying the order, dated 23.02.2004, passed in O.P.No.1289 of 2001 by the Tribunal, granting compensation of Rs.26,717/-. On deposit of the enhanced compensation, the appellant-claimant is permitted to withdraw the same along with the interest accrued thereon. Other terms of the Order under challenge remain unaltered.

Pending Miscellaneous Petitions, if any, shall stand closed.
There shall be no order as to costs.

03rd October, 2018
Bvv

Dr. SHAMEEM AKTHER, J

