

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.10 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.20,000/- as against a claim of Rs.2,00,000/-, vide order, dated 13.09.2004, passed in O.P.No.43 of 2000 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Nizamabad ('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 the learned counsel for the appellant-claimant and perused the record. In spite of service of notice and despite listing this appeal under the caption "For Orders", there is no representation for the 2nd respondent-Insurance Company. This appeal is of the year 2005. Hence, this appeal can be disposed of basing on the material available on record, without waiting for the learned Standing Counsel for the 2nd respondent-Insurance Company to advance arguments.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant was travelling by Auto bearing registration No.AP-25-T-6089 when the subject accident took place. The Tribunal, without there being any oral evidence, held that there was contributory negligence on the part of the drivers of the Auto bearing registration No.AP-25-T-6089 and the lorry bearing registration No.MH-26-7230, which is erroneous and ultimately prayed to allow the appeal by setting aside the said finding and also enhance the compensation on different heads.

4. As per the material on record, eleven persons were travelling by the Auto bearing registration No.AP-25-T-6089 on the date of accident. There was a collision between the lorry bearing registration No.MH-26-7230 and the Auto bearing registration No.AP-25-T-6089 by which the appellant-claimant was travelling. The Tribunal, after analysing the entire evidence on record in correct perspective, held that the drivers of the both vehicles were equally responsible for the occurrence of the subject accident. The Tribunal, though assessed the compensation payable to the appellant-claimant as Rs.40,000/-, but granted Rs.20,000/- in favour of the appellant-claimant and against the owner of the lorry bearing registration No.MH-26-7230 and its insurer. When there was contributory negligence on the part of the drivers of both the vehicles involved in the subject accident, the Tribunal rightly apportioned the compensation determined by it. No interference is required on the said aspect.

5. As far as the assessment of compensation of Rs.40,000/- is concerned, the same is based on the injuries suffered by the appellant-claimant in the subject accident and the consequences arose therefrom and is also in tune with the oral and documentary evidence on record. There is nothing to take a different view. There are no circumstances to interfere with the order under challenge. The appeal is devoid of merit and is liable to be dismissed.

6. In the result, the appeal is dismissed. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

29th August, 2018
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