

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2713 of 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the appellant-claimant aggrieved by the order dated 25.07.2003 in O.P.No.261 of 2000 on the file of the Motor Accident Claims Tribunal-cum-I Additional District Judge, Nalgonda (for short 'the Tribunal').

2. Heard the learned counsel for appellant-claimant, the learned counsel for respondent-Insurance Company and perused the record.

3. Learned counsel for the appellant-claimant would contend that the claimant suffered 100% disability. He was the cleaner of offending vehicle and earning Rs.2,000/- per month. The Tribunal took the monthly income of the claimant as Rs.900/-, applied multiplier '18', and assessed the disability suffered by the claimant as 40% and granted compensation of Rs.94,600/-, which is meagre and ultimately prayed to enhance the same.

4. On the other hand, learned counsel for the Insurance Company would contend that the claimant was not the cleaner of the lorry. There is no infirmity in the order under challenge. There are no grounds to enhance the compensation and ultimately, prayed to dismiss the appeal.

5. There is no dispute with regard to the claimant suffering injuries due to the accident caused by DCM van bearing

No.AP-10-U-1073 driven by its driver on 30.11.1999. The only dispute is with regard to enhancement of compensation.

6. The evidence of P.W.1 and Ex.A1-FIR discloses that claimant was the cleaner of the offending lorry. The Tribunal granted compensation of Rs.79,600/- towards 40% disability suffered by the claimant by taking his monthly income as Rs.900/-. The Tribunal also awarded some amount on other heads. As per the records, the claimant was 23 years old. Taking the monthly income of the claimant as Rs.900/- per month appears to be on lower side. As the accident occurred in 1999, his monthly income can be taken as Rs.1,800/- including future hike. As per the records and the certificate issued by the Board under Ex.A3, there is specific evidence of doctor showing that the claimant suffered 40% disability. So, an amount of Rs.1,55,000/- is payable towards 40% disability suffered by the claimant as calculated below:

(Rs.1,800 x 12 = Rs.21,600/- multiplied by '18', which comes to Rs.3,88,800/- x 40/100 = Rs.1,55,520/-, which is rounded to Rs.1,55,000/-)

7. While dealing with this matter, the Tribunal granted Rs.15,000/- on different heads. So, the grant of said amount is based on evidence on record. Therefore, no variation is required.

8. According to P.W.2-doctor, the claimant suffered with the following grievous injuries:

1. Grade II Compound fracture shaft of right femure (thigh bone)

2. Posterior dislocation of right hip with seidtlic nerve paisy.
3. Grade II compound fracture both bones of right leg.

Hence, the claimant is entitled for a sum of Rs.15,000/- towards pain and suffering and another sum of Rs.15,000/- for extra nourishment, transport and incidental charges incurred by the claimant. In total, the claimant is entitled for compensation of Rs.2,00,000/- with interest @ 7.5% per annum on the enhanced compensation.

9. Accordingly, the appeal is allowed in part modifying the order, dated 25.07.2003 passed by the Tribunal in O.P.No.261 of 2000, enhancing the compensation from Rs.94,600/- to Rs.2,00,000/- with interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till the date of deposit. On such deposit, the claimant is permitted to withdraw the entire amount along with the interest accrued thereon.

The Miscellaneous Petitions, if any, pending shall stand closed.

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Dr. SHAMEEM AKTHER, J

Date: 24.07.2018

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