

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2169 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) is filed by the appellant/The New India Assurance Company Limited, aggrieved by the grant of compensation of Rs.8,29,400/- as against a claim of Rs.10,00,000/- to the 1st respondent/claimant, by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Karimnagar ('the Tribunal', for brevity), vide order, dated 02.06.2004, passed in O.P.No.287 of 2002.

2. Heard the learned Standing Counsel for the appellant-Insurance Company, the learned counsel for the 1st respondent/claimant and perused the record.

3. The learned counsel for the appellant-Insurance Company would submit that the 1st respondent/claimant was working as Coal Filler at 6-A Incline, Godavarikhani. He received his terminal benefits. Compassionate appointment was given to his wife. He cannot make two claims out of one accident. The assessment and grant of compensation of Rs.8,29,400/- by the Tribunal is excessive. The Tribunal also erred in granting high rate of interest (9%) on the amount granted as compensation and ultimately prayed to allow the appeal by setting aside the impugned order.

4. On the other hand, the learned counsel for the 1st respondent/claimant would contend that the Tribunal had taken

all the relevant factors into consideration and awarded just and reasonable compensation of Rs.8,29,400 with interest at the rate of 9% per annum. The 1st respondent/claimant is entitled to receive terminal benefits and his wife is entitled for compassionate appointment, in addition to the compensation awarded by the Tribunal. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the appeal.

5. In view of the rival contentions of both the learned counsel, the only point that arises for consideration in this appeal is whether the impugned order passed by the Tribunal awarding compensation in favour of the 1st respondent/claimant is liable to be set aside or the compensation awarded is liable to be reduced.

6. Admittedly, the 1st respondent/claimant sustained injuries in a road accident that occurred on 26.04.2002, due to the rash and negligent driving of the driver of the lorry bearing registration No.MH-34-A-5116. The Tribunal, while dealing with the injuries sustained by the 1st respondent/claimant, medical expenses incurred by him and the percentage of disability sustained by him, assessed and awarded an amount of Rs.8,29,400/- as compensation along with interest at the rate of 9% per annum from the date of petition till the date of deposit. As seen from the oral and documentary evidence available on record, the 1st respondent/claimant suffered grievous injuries and he was declared unfit to continue his job as Coal Filler at 6-A Incline, Godavarikhani. He received his terminal benefits and his wife was

provided appointment, since the 1st respondent/claimant was declared unfit to work in view of the injuries sustained by him in the subject accident. Under law, the injured claimant is entitled to get just and reasonable compensation under the Act. In the event of termination of his services, he is entitled for terminal benefits in addition to the compensation granted under the Act. Subject to entitlement of the parties, the dependants of the injured, on termination of the services, are entitled to seek appointment on compassionate grounds. Appointment given to wife of the claimant, on account of his medical invalidation, would not be a ground to reject the claim for compensation, or reduce the same, under the Act. So, compensation granted in the instant case cannot be faulted and cannot be reduced or the impugned order cannot be set aside as contended.

7. It is apt to refer to the decision of the Apex Court in Dharampal Vs. State Road Transport Corporation¹, wherein, the Apex Court awarded interest at the rate of 7.5% per annum on the amount awarded as compensation in the cases of this nature. There are number of other citations, wherein, interest was awarded at the rate of 7.5% per annum on the amount awarded as compensation in the cases of this nature. In view of the same, awarding interest at the rate of 9% per annum on the amount awarded as compensation by the Tribunal is held excessive.

8. Accordingly, this appeal is allowed in part, modifying the order, dated 02.06.2004, passed in O.P.No.287 of 2002 by the

¹ MANU SC 7680 2008

Tribunal, only to the extent of reducing the rate of interest from 9% per annum to 7.5% per annum on the amount granted as compensation (Rs.8,29,400/-) from the date of petition till realisation. The other terms of the Order under challenge remain unaltered. On deposit of the compensation, the 1st respondent-claimant is permitted to withdraw the entire amount with interest accrued thereon. The other terms of the Order under challenge remain unaltered.

Miscellaneous Petitions pending, if any, shall stand closed.

No order as to costs.

28th June, 2018
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Dr. SHAMEEM AKTHER, J

