

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3454 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/the United India Insurance Company Limited, aggrieved by the grant of compensation of Rs.1,50,000/- along with proportionate costs and interest at the rate of 9% per annum from the date of the petition till the date of payment including the amount, if any, paid under no fault liability, as against a claim of Rs.2,00,000/-, to respondent No.1/claimant, by the learned I Additional Chief Judge, City Civil Court, Secunderabad (for short, "the Tribunal") *vide* order, dated 26.02.2003, passed in O.P.No.92 of 2000.

2. Heard the submissions of the learned Standing Counsel appearing for the United India Insurance Company Limited representing the appellant, the learned counsel appearing for respondent No.1/claimant, and perused the material on record.

3. Learned Standing Counsel for the United India Insurance Company Limited representing the appellant would contend that the Tribunal had granted a compensation of Rs.1,50,000/- along with proportionate costs and interest at the rate of 9% per annum and the same is on higher side; that the Tribunal had not properly assessed the compensation and not awarded the compensation in accordance with the settled legal principles and ultimately, prayed to set aside the impugned order.

4. Learned counsel for respondent No.1/claimant would contend that the Tribunal is justified in granting the compensation of Rs.1,50,000/- along with proportionate costs and interest at the rate of 9% per annum; that the finding of the Tribunal is based on the evidence on record; that there is nothing to take a different view and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel on either side, the point that arises for determination is:

“Whether the compensation of Rs.1,50,000/- along with interest at the rate of 9% per annum awarded in favour of respondent No.1/claimant is excessive and the same is liable to be reduced?”

6. **POINT:-** As per the oral and documentary evidence on record, the claimant suffered closed fracture of right shaft femur, closed fracture of both bones of right leg, fracture of right patella and compound fracture of right fibula. He had undergone operation and a steel rod was inserted in his right leg. As per Ex.A-7 – Disability Certificate, the claimant suffered 55% permanent disability. The Tribunal, having taken the income of the claimant at Rs.1,200/- per month, his age as “25” years and the disability as 55%, applied the multiplier “17” and awarded an amount of Rs.1,30,000/- towards loss of future earnings. The Tribunal also awarded compensation payable on different counts i.e., Rs.15,000/- towards pain and suffering and Rs.5,000/- towards medical expenses and in all, awarded a compensation of Rs.1,50,000/-. So, for the injuries suffered by the claimant and disability arose therefrom, it cannot be said that grant of compensation of Rs.1,30,000/- towards loss of future earnings is

excessive. In these circumstances, the Tribunal is justified in granting the compensation of Rs.1,50,000/- to the claimant. Hence, with regard to quantum of compensation, the impugned order does not warrant interference of this Court. As regards the rate of interest, it is apt to refer to the decision of the Apex Court in **Dharampal Vs. State Road Transport Corporation**¹ wherein the Apex Court awarded interest at the rate of 7.5% per annum on the amount awarded as compensation. In the instant case, the Tribunal granted interest at the rate of 9% per annum, which is excessive.

7. Accordingly, the quantum of compensation of Rs.1,50,000/-, which was awarded by the Tribunal in favour of respondent No.1/claimant is confirmed, but the rate of interest awarded thereon is reduced from 9% per annum to 7.5% per annum. The other terms of the impugned order remain unaltered.

8. In the result, the appeal is partly allowed. There shall be no order as to costs.

9. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

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Date : 28.08.2018
AMD

¹ MANU SC 7680 2008

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