

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2436 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.16,000/- as against a claim of Rs.1,40,000/- by the Chairman, Motor Accident Claims Tribunal-cum-V Additional District Judge, Nizamabad ('the Tribunal' for brevity), vide order, dated 16.12.2004, passed in O.P.No.89 of 2000, 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, the learned Standing Counsel for the 2nd respondent-Insurance Company and perused the record.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant suffered grievous and simple injuries in the subject road accident. The Tribunal granted a meagre compensation of Rs.16,000/- as against a claim of Rs.1,40,000/-, though there is evidence of P.W.2-Dr.L.Ramulu to the effect that the appellant-claimant suffered 40% disability and ultimately prayed to enhance the compensation as prayed for.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that the Tribunal had rightly calculated the compensation at Rs.16,000/- and awarded the same along with interest at the rate of 9% per annum, which is just and reasonable. There is nothing to vary the same and ultimately prayed to dismiss the appeal.

5. As per the evidence of P.W.1-K.Anjamma (mother of the appellant-claimant) the appellant-claimant sustained fractures to two collar bones and fracture to left foot and received head injuries. As per the medical record and the evidence of P.W.2-Dr.L.Ramulu, the appellant-claimant suffered dislocation of sterno clavicle joint. The appellant-claimant was four years old as on the date of accident. P.W.2-Dr.L.Ramulu had also deposed that movements of the appellant-claimant were restricted and the appellant-claimant suffered 40% disability. P.W.2-doctor had issued Ex.A.6-Disability Certificate. Admittedly, the appellant-claimant did not choose to subject herself for examination by the competent Medical Board at the District Headquarters Hospital to assess the disability suffered by her.

6. The Tribunal had granted Rs.6,000/- towards pain and suffering of two simple injuries, Rs.5,000/- towards pain and suffering of grievous injury and a sum of Rs.5,000/- towards medical expenses and extra nourishment during the period of treatment as in-patient for ten days. In view of the two simple injuries and one grievous injury suffered by the appellant-claimant, this Court deems it appropriate to grant Rs.21,000/- for the same, including pain and suffering. Granting of Rs.5,000/- to the appellant-claimant by the Tribunal towards medical expenses and extra nourishment is just and reasonable. Thus, the appellant-claimant is entitled for a total compensation of Rs.26,000/- (Rupees twenty six thousand only) (Rs.21,000/- + 5,000/-). The Tribunal granted interest at the rate of 9% per annum on the amount of compensation. However, this Court is inclined to award interest at

the rate of 7.5% per annum on the enhanced amount of compensation.

7. Accordingly, this appeal is allowed in part modifying the order, dated 16.12.2004, passed by the Tribunal, enhancing the compensation from Rs.16,000/- to Rs.26,000/- with interest at the rate of 7.5% per annum on the enhanced compensation from the date of petition till realisation. On deposit of the compensation, the appellant-claimant is permitted to withdraw the entire amount with interest. The other terms of the Order under challenge remain unaltered.

Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

14th June, 2018
Bvv

Dr. SHAMEEM AKTHER, J

