

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3303 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/claimant aggrieved by the grant of compensation of Rs.58,000/- with proportionate costs and interest at 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.1,50,000/-, by the learned IX Additional District & Sessions Judge, (Fast Track Court), Krishna, Machilipatnam (for short, "the Tribunal") *vide* order, dated 20.06.2005, passed in M.V.O.P.No.108 of 2001.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant. No representation for the respondents though the matter is listed under the caption "For Orders". The appeal pertains to the year 2005. So it can be disposed of basing on the material available on record. Perused the record.

3. Learned counsel for the appellant/claimant would contend that the claimant suffered both simple and grievous injuries and the fracture on the right upper thigh near hip joint resulting in permanent disability, but the Tribunal granted only an amount of Rs.58,000/- with proportionate costs and interest at 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.1,50,000/-, which is meagre; that the Tribunal did not grant adequate compensation on other heads and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. In view of the submissions made by the learned counsel for the appellant, the short point that falls for determination is:

“Whether the appellant/claimant is entitled for enhancement of compensation?”

5. **POINT:-** There is no dispute with regard to the claimant suffering injuries in a road accident that occurred on 09.08.1999 due to the rash and negligent driving of the driver of Ambassador Car bearing No.A.P.16.T 9766. The only dispute is with regard to quantum of compensation.

6. As per the evidence of P.W.2 – Dr.V.Somanadham, the claimant suffered fracture on the right upper thigh near the hip joint. X-ray film demonstrates that there was a commuted fracture. There is also evidence of P.W.2 that the claimant suffered another fracture on the left part of the lower jaw mandible. Having considered these injuries and the treatment taken by the claimant, the Tribunal granted a total compensation of Rs.58,000/- on different heads i.e., Rs.15,000/- towards special damages, Rs.3,500/- towards pain and suffering, Rs.3,500/- towards mental agony and Rs.36,000/- towards compensation for two fractures. For fracture on the right upper thigh near hip joint and another fracture on the left part of the lower jaw mandible, the Tribunal ought to have granted some more amount. Considering the totality of circumstances and as the accident occurred in the year 1999, an amount of Rs.17,000/- can be granted in addition to the amount granted by the Tribunal on different heads. Thus, in all, the claimant is entitled for a compensation of Rs.75,000/- (Rupees seventy five thousand only) (i.e., Rs.58,000/- + Rs.17,000/-).

7. Accordingly, this appeal is allowed in part modifying the order, dated 20.06.2005, passed in M.V.O.P.No.108 of 2001 by the Tribunal, enhancing the compensation from Rs.58,000/- to Rs.75,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. On deposit of the compensation, the appellant/claimant is permitted to withdraw the entire amount along with the accrued interest. There is no change in the other directions given by the Tribunal. There shall be no order as to costs.

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

Date : 11.09.2018
AMD

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