

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3523 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.16,000/-, as against the claim of Rs.2,00,000/-, by the Motor Accidents Claims Tribunal-cum-V Additional District Judge, Nizamabad, vide order, dated 29.12.2004, passed in O.P.No.760 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 2nd respondent-Oriental Insurance Company and perused the record.

3. Learned counsel for the appellant-claimant would contend that though the appellant suffered fracture injuries and other injuries all over the body due to the rash and negligent driving of driver of Tractor bearing No.AP-25-T-3839 and taken treatment and filed proof of the same, the Tribunal granted meagre amount for the injuries and under different heads and ultimately, prayed to enhance the compensation.

4. On the other hand, learned Standing Counsel for the 2nd respondent-insurance company would contend that the Tribunal had elaborately dealt with the injuries suffered by the appellant and granted just compensation. He has also submitted that this Court by order, dated 09.11.2004, passed in C.M.A.No.3518 of 2004, held thus:

“..... and the Chairman, M.A.C.T Nizamabad not to act solely on the evidence of Dr.T.Narsing Rao and Dr.Ramulu in awarding compensation in claim petition pending for consideration before them.”

Hence, the evidence of P.W.2-Dr.T.Narsing Rao is not worthy for consideration and the said observation was made in the impugned order and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both the counsel, the point for determination in this appeal is whether the appellant-claimant is entitled to enhancement of compensation.

6. There is evidence of P.Ws.1 and 2 with regard to the injuries suffered by the appellant in the subject accident. Ex.A.3 is the certified copy of wound certificate issued by the Government Hospital, Nizamabad. On a requisition given by the Station House Officer concerned, the Doctor examined the appellant and found that the appellant sustained three simple injuries and one grievous injury. The appellant has been treated as inpatient for about a week from 27.05.2000 to 02.06.2000. As per Ex.A.3, he was operated and a rod has been inserted for his fracture injury. He also sustained laceration injury on frontal area of the scalp admeasuring 3" x ¼" x ¼", laceration of dorsum of the right hand admeasuring "½ x 1/6" x 1/6", laceration of wound in the form of swelling and tenderness at right hand and also found grievous injury as per MLC, X-Ray No.491. Since Ex.A.3-wound certificate was prepared by Duty Doctor of Government Hospital, Nizamabad, it can safely be held that the appellant suffered the injuries mentioned in Ex.A.3. For those injuries, certainly the appellant has to take treatment and it may be by P.W.2 or some other Doctor. While dealing with the same, the Tribunal granted an amount of Rs.6,000/- towards pain and suffering and for the three simple injuries, Rs.5,000/- for grievous injury and Rs.5,000/- for medical expenses and extra-nourishment during treatment for the above injuries. In all, the Tribunal granted

an amount of Rs.16,000/- with interest @ 9% per annum from the date of petition till the date of realization.

7. When there is a grievous injury, granting compensation at Rs.5,000/- is meagre and the same is enhanced to Rs.10,000/-. Further, the Tribunal did not grant any compensation for loss of earnings, transportation etc. There is no dispute that the appellant had incurred huge amount for treatment. The appellant is doing agriculture and said to be earning Rs.6,000/- per month. The Tribunal has not granted any amount for loss of earnings. Taking into consideration the same, an amount of Rs.6,000/- is awarded towards loss of earnings, at the rate of Rs.2,000/- per month for three months, and Rs.2,000/- towards transportation charges and Rs.2,000/- towards extra-nourishment. In all, the appellant is entitled to compensation of Rs.31,000/-. With regard to granting of amounts under other heads, the Tribunal is justified.

8. In the result, the appeal is allowed in part modifying the Judgment, dated 29.12.2004, passed in O.P.No.760 of 2000 by the Tribunal enhancing the compensation from Rs.16,000/- to Rs.31,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till the date of realization. There shall be no order as to costs. On deposit, the claimant is entitled to withdraw the entire compensation amount awarded along with interest accrued. The other terms of impugned order remain unaltered.

Pending miscellaneous petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

AUGUST 31, 2018

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Date:31.08.2018

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