

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1931 OF 2008

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/United India Insurance Company Limited, aggrieved by the grant of compensation of Rs.3,00,000/- with proportionate costs and future interest at the rate of 9% per annum from the date of petition till the date of realisation as against a claim of Rs.10,00,000/- to respondent No.2/claimant, by the learned Chairman, Motor Accident Claims Tribunal – cum - I Additional District Judge, Anantapur (for short, “the Tribunal”) *vide* order, dated 04.04.2006, passed in O.P.No.501 of 2001.

2. Heard the submissions of the learned Standing Counsel appearing for the United India Insurance Company Limited representing the appellant and the learned counsel for respondent No.2/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, without any justification, granted huge amounts for the injuries, loss of earnings etc., without there being any oral and documentary evidence on record and also granted high rate of interest on the compensation awarded; that though P.W.2 – Branch Manager was examined, he did not depose about the loss of earnings caused to the claimant; that the Tribunal, taking the salary of the claimant as Rs.11,000/- per month, granted Rs.1,00,000/- towards loss of earnings, which is erroneous, and ultimately, prayed to reduce the compensation and allow the appeal as prayed for.

4. On the other hand, learned counsel for respondent No.2/claimant would contend that because of the simple and grievous injuries suffered by the claimant in the subject road accident, the claimant could not work; that the claimant suffered heavy loss and the Tribunal is justified in granting Rs.3,00,000/- on different heads; that the findings of the Tribunal are based on the evidence on record; that there are no circumstances to take a different view including the award of interest at the rate of 9% per annum and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel on both sides, the following point comes up for determination:

“Whether the Tribunal is justified in awarding compensation of Rs.3,00,000/- with interest at the rate of 9% per annum in favour of respondent No.2/claimant?”

6. **POINT:-** There is no dispute with regard to the claimant suffering injuries in a road accident that occurred on 21.05.1999 due to the rash and negligent driving of the driver of jeep bearing No.AP-21-A-3309. The only dispute is with regard to assessment and award of compensation.

7. To prove the claim, the claimant himself deposed as P.W.1 and examined P.Ws.2 to 6 and marked Exs.A-1 to A-11. On behalf of the Insurance Company, R.W.1 was examined and Ex.B-1 – copy of insurance policy was marked. Ex.X-1 – X-ray was marked through the Advocate Commissioner.

8. P.W.1/claimant was working as Branch Manager of Chalapathi Chit Fund (P) Limited, Anantapur Branch at the time of accident. P.W.2, who is the Branch Manager connected with the

affairs of the claimant, did not say anything about the claimant remaining absent from duty. Even no certificate for absence of the claimant from duty was marked. There is evidence that initially, the claimant was drawing a salary of Rs.7,000/- per month and later, it was enhanced to Rs.11,000/- per month. P.W.3 – Doctor deposed about the injuries suffered by the claimant. According to him, the disability suffered by the claimant was 45%. As per the medical record and the oral evidence, the claimant suffered four grievous injuries and multiple fractures to his left leg apart from simple injuries. His left leg was disfigured and he underwent operation on 14.06.1999 and bone grafting was done on 04.08.1999. He also suffered permanent disability of 45%. Having considered the nature of injuries and the consequences arose therefrom, the Tribunal was pleased to grant a total compensation of Rs.2,96,179/- i.e., Rs.1,00,000/- towards loss of earnings, Rs.49,739/- towards medical expenses, Rs.26,440/- towards transport charges and Rs.1,20,000/- towards permanent disability plus mental suffering. As far as the grant of compensation towards medical expenses, transport charges and permanent disability plus mental suffering is concerned, there is oral and documentary evidence to support the same. Hence, the Tribunal is justified in granting the said amount. When it comes to the award of Rs.1,00,000/- towards loss of earnings, there is no certificate issued by competent officer for absence from duty. Further, there is no oral evidence to hold that the claimant was absent for certain period. Admittedly, the claimant suffered grievous injuries and also simple injuries. So it can be held that he took bed rest for not less than six months and as his salary was Rs.11,000/- per month, he is entitled for a compensation of Rs.66,000/- towards

loss of earnings for a period of six months. The grant of compensation towards loss of earnings of Rs.1,00,000/- is on higher side and it is reduced to Rs.66,000/-.

9. As regards rate of interest, it is apt to refer to a decision of the Apex Court in **Dharampal Vs. State Road Transport Corporation**¹ wherein the Apex Court awarded interest @ 7.5% per annum on the amount awarded as compensation. In the instant case, the Tribunal granted interest @ 9% per annum, which is excessive. The quantum of compensation of Rs.3,00,000/- which was awarded by the Tribunal in favour of respondent No.2/claimant is reduced from Rs.3,00,000/- to Rs.2,66,000/- and also the rate of interest awarded thereon is reduced from 9% per annum to 7.5% per annum.

10. Accordingly, the appeal is partly allowed modifying the order, dated 04.04.2006, passed in O.P.No.501 of 2001 by the Tribunal reducing the compensation from Rs.3,00,000/- to Rs.2,66,000/- and also the rate of interest from 9% per annum to 7.5% per annum. The other directions given by the Tribunal in the impugned order remain unaltered. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 04.09.2018
AMD

¹ MANU SC 7680 2008

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