

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1781 OF 2006

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.28,000/- with proportionate costs and interest at the rate of 7.5% per annum from the date of petition till the date of deposit, as against a claim of Rs.1,00,000/-, by the learned Chairman, Motor Accident Claims Tribunal – cum – VII Additional District Judge, Chittoor at Madanapalle (for short, “the Tribunal”) *vide* order, dated 15.05.2006, passed in M.V.O.P.No.243 of 2004.

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

3. Learned counsel for the appellant/claimant would contend that as against a claim of Rs.1,00,000/-, the Tribunal granted only Rs.28,000/-, which is meagre; that the Tribunal did not consider the grievous injuries suffered by the claimant and the consequences there from; that the Tribunal did not appreciate Exs.A-4 and A-5 – disability certificates wherein the disability is shown as 20% and the Tribunal ought to have considered the said documents and granted some amount towards 20% disability, and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel appearing for the United India Insurance Company Limited representing respondent No.2 would contend that the claimant suffered one grievous injury and one simple injury; that the Tribunal had granted an amount of Rs.10,000/- for loss of two teeth, an amount of Rs.2,000/- towards pain and suffering for two simple injuries, Rs.5,000/- towards medical expenses, Rs.2,000/- towards transportation, Rs.2,000/- towards extra nourishment and Rs.5,000/- towards replacement of the teeth and the same is just and reasonable; that there are no circumstances to interfere with the impugned order and ultimately, prayed to dismiss the appeal.

5. As per Ex.A-2 - certified copy of wound certificate, the claimant suffered a lacerated injury with suspected fracture on the base of the nose, lacerated injury over left upper frontal region and loss of upper two central incisor teeth with bleeding. Injury Nos.1 and 2 were described as simple whereas injury No.3 was described as grievous. P.W.2 issued the permanent disability certificates and opined that the disability suffered by the claimant is 20%. P.W.2 clearly admitted that the claimant was injured on 31.08.2003 and he examined the claimant on 17.01.2006. Since the doctor, who issued the disability certificates, did not treat the claimant and further, as he did not see the case sheet and disability was not assessed for the whole body, the Tribunal held that the permanent disability assessed by P.W.2 cannot be accepted. However, the Tribunal granted the compensation as contended by the learned Standing Counsel for the United India Insurance Company Limited. While determining the compensation, considering the date of accident, which occurred on 31.08.2003, the Tribunal

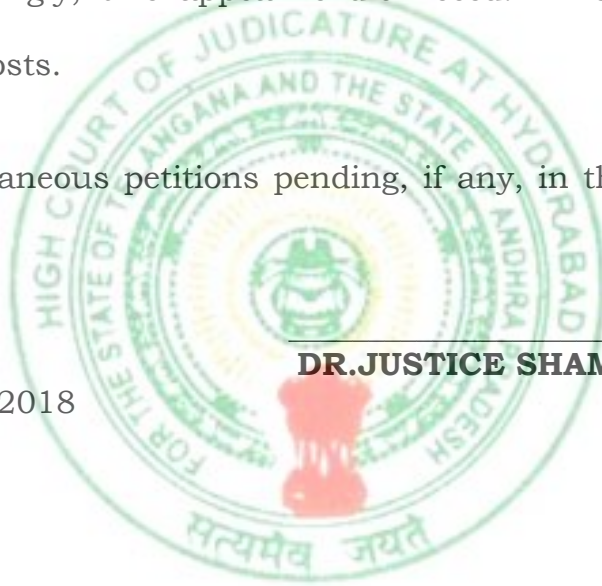
assessed the compensation payable on different heads taking into account the grievous and simple injuries suffered by the claimant. The claimant has not filed the X-rays or the case sheet to substantiate the disability said to have been suffered by him. In these circumstances, the grant of compensation of Rs.28,000/- with proportionate costs and interest at the rate of 7.5% per annum from the date of petition till the date of deposit is justified. There are no merits to enhance the compensation. The appeal is devoid of merit and is liable to be dismissed.

6. Accordingly, this appeal is dismissed. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 14.08.2018
AMD



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