

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1980 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.50,000/- with proportionate costs and interest at 7.5% per annum from the date of petition till the date of realization, as against a claim of Rs.1,00,000/-, by the learned Chairman, Motor Accident Claims Tribunal – cum – V Additional District Judge (Fast Track Court), Ranga Reddy District at L.B.Nagar (for short, “the Tribunal”) *vide* order, dated 15.06.2006, passed in O.P.No.53 of 2005.

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

3. Learned counsel for the appellant/claimant would contend that the Tribunal awarded total compensation of Rs.50,000/- only as against the claim of Rs.1,00,000/-, which is meagre; that the claimant suffered both simple and grievous injuries, but the Tribunal did not grant any compensation for the disability suffered by the claimant; that the Tribunal granted meagre compensation on different heads and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel for the National Insurance Company Limited appearing for respondent

No.2 would contend that the Tribunal is justified in granting Rs.50,000/- with proportionate costs and interest at 7.5% per annum on different heads; that there are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both the counsel, the short point that falls for determination is:

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

6. **POINT:-** There is no dispute with regard to the claimant suffering injuries in a road accident that occurred on 01.01.2005 due to the rash and negligent driving of the driver of car bearing No.AP-9K-8600. The only dispute is with regard to enhancement of compensation.

7. To prove the injuries, the claimant deposed as P.W.1 and examined P.W.2 – Dr.C.Kamaraj and got marked Exs.A-1 to A-7 and Exs.X-1 and X-2. Ex.A-1 is the certified copy of F.I.R. Ex.A-2 is the certified copy of charge sheet. Ex.A-3 is the certified copy of Medico Legal Case record. Ex.A-4 is the medical bills (20 in number). Ex.A-5 is the Estimation Letter issued by Kamineni Hospitals. Ex.A-6 is the X-ray reports (2 in number). Ex.A-7 is the X-ray films (7 in number). Ex.X-1 is the discharge summary and Ex.X-2 is the copy of case sheet. On behalf of the respondents, no oral evidence was adduced. Ex.B-1 – copy of Insurance Policy was marked.

8. There is specific evidence of P.W.2 – Doctor that he was working as an Orthopaedic Surgeon in Kamineni Hospitals at L.B.Nagar; that he examined the claimant and found fractures of both bones of right leg and 3rd, 4th and 5th metatarsals on right foot; that he operated the claimant on 01.01.2005 by way of interlocking nailing of right tibia; that the claimant was discharged from the hospital on 12.01.2005 with an advice to take bed rest for six weeks; that both the injuries mentioned supra are grievous in nature and that the claimant requires one more operation for removal of implants. His evidence is corroborated by X-ray reports and other medical evidence brought on record. While determining the award of compensation, the Tribunal granted Rs.5,000/- for two grievous injuries and taking into consideration the period of treatment. Further, the Tribunal granted Rs.25,000/- for the fracture of both bones of right leg and Rs.5,000/- for fracture of three metatarsals. The Tribunal also granted Rs.10,000/- for medical expenses and transportation and Rs.5,000/- towards extra nourishment. There is evidence of P.W.2 that the claimant suffered 10% permanent disability. However, a disability certificate from the competent Medical Board was not produced. There is no doubt with regard to the claimant suffering fracture of both bones of right leg and fracture of three metatarsals. Considering the said aspect, it can be safely concluded that the claimant suffered 10% permanent disability as deposed by P.W.2 – Doctor. No amount is paid on this score. As per the evidence placed on record, the claimant was a student aged about 22 years at the time of accident. Considering the same, the date of accident and the earning capabilities in those days, an amount of

Rs.45,000/- is granted towards 10% permanent disability caused to the claimant. As far as the grant of compensation on different heads by the Tribunal is concerned, there is justification on the part of the Tribunal in awarding the said compensation. There are no circumstances to interfere with the same. Thus, the appellant/claimant is entitled for a total compensation of Rs.95,000/- (Rupees ninety five thousand only).

9. Accordingly, this appeal is allowed in part modifying the order, dated 15.06.2006, passed in O.P.No.53 of 2005 by the Tribunal, enhancing the compensation from Rs.50,000/- to Rs.95,000/-. 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.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 04.09.2018
AMD

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