

**THE HON'BLE DR.JUSTICE SHAMEEM AKTHER**

**M.A.C.M.A.No.2786 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.25,000/- with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.2,00,000/-, by the learned Chairman, Motor Accident Claims Tribunal – cum – III Additional District Judge (Fast Track Court), Nizamabad (for short, “the Tribunal”) *vide* order, dated 12.04.2005, passed in O.P.No.480 of 2001.

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

3. Learned counsel for the appellant/claimant would contend that the claimant suffered one grievous injury and three simple injuries; that there is specific evidence of P.W.2 – Dr. V.Akilesh to show that the claimant suffered 35% permanent disability; that the Tribunal granted only a 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 appearing for the New India Assurance Company Limited representing respondent No.2 would contend that the Tribunal had taken all the

factors into consideration and granted compensation of Rs.25,000/- as against the claim of Rs.2,00,000/-, which is just and reasonable; that there are no circumstances to interfere with the impugned judgment 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:-** To substantiate the case of the claimant, the claimant himself was examined as P.W.1 and Dr.V.Akilesh was examined as P.W.2. Exs.A-1 to A-5 were marked. 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 wound certificate, ExA-4 is the salary certificate and Ex.A-5 is the X-ray film. The disability certificate issued by P.W.2 showing the disability of the claimant as 35% was marked as Ex.C-1. Basing on the evidence of P.Ws.1 and 2 and Ex.A-3, the Tribunal held that the claimant suffered fracture of right humerus and three other simple injuries basing on the evidence on record. There is no dispute with regard to the claimant suffering the said injuries.

7. Learned counsel for the appellant also contended that the Tribunal, while dealing with the matter, did not grant compensation towards 35% disability stating that the disability certificate was not obtained from the Medical Board concerned. For that, the Tribunal had assigned reasons. It is held by the Tribunal that the claimant is still in Government service and his

promotional avenues and amenities are not affected on account of the injuries sustained in the accident and any promotion was not denied due to the injuries sustained by him. The Tribunal was pleased to grant an amount of Rs.10,000/- for the grievous injury, Rs.2,000/- each for three simple injuries, Rs.2,000/- towards treatment, Rs.2,000/- for extra nourishment, Rs.3,000/- for pain and suffering and Rs.2,000/- for transportation charges and in all, granted an amount of Rs.25,000/-. Admittedly, the Tribunal did not grant any amount towards loss of earnings. The claimant is a Government employee and there is no loss of promotion or income. Thus, the Tribunal is justified in doing so.

8. Now-a-days, some doctors are exaggerating the injuries and giving false disability certificates. In the instant case, the disability certificate is given assessing the disability as 35%. As per Ex.A-3, the claimant suffered only fracture of right humerus, which would not result 35% disability to any person. It shows how some of the private practioners are deposing in favour of the claimants to get more compensation. When there is a Medical Board headed by the experts to assess and issue disability certificate, claimant should have obtained certificate from it to prove his disability. Therefore, the Tribunal is justified in not taking the disability of the claimant as 35%. Further, the Tribunal had dealt with all the heads under which one is entitled for compensation and granted the compensation on different heads. The amount granted by the Tribunal on different counts is just and reasonable. There are no circumstances to interfere with the impugned order. Hence, the appeal is devoid of merit and is liable to be dismissed.

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

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

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Date : 13.08.2018  
AMD



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