

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1547 OF 2007

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.27,000/- with proportionate costs and interest at 7.5% per annum from the date of petition till the date of deposit, as against a claim of Rs.2,00,000/-, by the learned Chairman, Motor Vehicle Accident Claims Tribunal – cum – IV Additional District Judge, Kadapa (for short, “the Tribunal”) *vide* order, dated 23.05.2007, passed in M.V.O.P.No.25 of 2004.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant. There is no representation for the respondents. The appeal pertains to the year 2007. Hence, the appeal is disposed of basing on the material available on record. Perused the record.

3. Learned counsel for the appellant/claimant would contend that the claimant suffered fracture of right tibia and other injuries, but the Tribunal granted an amount of Rs.27,000/- with costs and interest at 7.5% per annum from the date of petition till the date of deposit, as against a claim of Rs.2,00,000/-, which is meagre; and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. In view of the submissions made by the learned counsel for the appellant/claimant, the short point that falls for determination is:

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

5. **POINT:-** There is no dispute with regard to the claimant suffering injuries in a motor vehicle accident that occurred on 12.10.2003 due to the rash and negligent driving of the driver of lorry bearing No.TN-23C 3767. The only dispute is with regard to enhancement of compensation.

6. To substantiate her case, the claimant was examined as P.W.1 and one Dr.G.Venkata Subbaiah was examined as P.W.2. Exs.A-1 to A-6 were got marked on her behalf. Ex.A-1 is the certified copy of F.I.R. Ex.A-2 is the certified copy of Wound Certificate. Ex.A-3 is the certified copy of charge sheet. Ex.A-4 is the Disability Certificate. Ex.A-5 is the Expenditure List. Ex.A-6 is the Case sheet. As per the evidence of P.W.2 and the medical record placed before the Court, particularly, the X-ray of right leg, the claimant suffered fracture of right tibia. She was 25 years old on the date of accident. It is contended that she was earning Rs.5,000/- per month by rearing cattle. The Tribunal granted a total compensation of Rs.27,000/- i.e., Rs.10,000/- in lumpsum towards treatment, extra nourishment, transport charges etc., Rs.15,000/- towards pain and suffering, and Rs.2,000/- towards loss of earnings. When there is a fracture of right tibia, the Tribunal ought to have granted some more amount towards compensation in view of the nature of injury and the deformity caused to the claimant. The claimant is entitled for an amount of Rs.25,000/- towards expenses incurred for the treatment, extra nourishment and transportation charges, Rs.20,000/- towards

injuries and pain and suffering and Rs.5,000/- towards loss of earnings. In all, the claimant is entitled for an amount of Rs.50,000/- (Rupees fifty thousand only) (i.e., Rs.25,000/- + Rs.20,000/- + Rs.5,000/-).

7. Accordingly, this appeal is allowed in part modifying the order, dated 23.05.2007, passed in M.V.O.P.No.25 of 2004 by the Tribunal, enhancing the compensation from Rs.27,000/- to Rs.50,000/-. 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.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 12.09.2018
AMD

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



M.A.C.M.A.No.1547 OF 2007

Date: 12.09.2018

AMD