

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1131 of 2006

JUDGMENT:

Aggrieved by the grant of compensation of Rs.44,300/- as against a claim of Rs.2,00,000/-, vide order, dated 06.01.2006, passed in O.P.No.758 of 2000 by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge (FTC), Nizamabad ('the Tribunal', for brevity), the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), seeking enhancement of compensation.

2. Heard the learned counsel for the appellant-claimant, the learned Standing Counsel for 2nd respondent-Insurance Company and perused the record.

3. The learned counsel for the appellant-claimant would contend that though the appellant-claimant suffered three grievous injuries in the subject accident occurred on 06.05.2000, the Tribunal granted a meagre compensation of Rs.30,000/- for the said injuries. Further, the Tribunal granted meagre compensation towards medical expenses, extra-nourishment and transportation charges and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for 2nd respondent-Insurance Company would contend that the appellant-claimant did not file Wound Certificate to substantiate that he suffered injuries in the subject accident. However, the Tribunal had taken all the relevant factors into consideration and granted a compensation of Rs.44,300/- with interest @ 7.5% per annum

from the date of petition till realisation, which is just and reasonable. There are no circumstances to interfere with the impugned order of the Tribunal and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the appellant-claimant sustained injuries in the subject accident occurred on 06.05.2000, due to rash and negligent driving of the driver of the jeep bearing registration No.AP-15-U-6311. The point that arises for determination in this appeal is whether the appellant-claimant is entitled for enhancement of compensation.

6. As rightly contended by the learned Standing Counsel for the 2nd respondent-Insurance Company, the appellant-claimant did not file Wound Certificate to substantiate that he suffered injuries in the subject accident. Ex.A.3 is medical prescriptions. Ex.A.7 is X-ray films. Ex.A.4 is the medical bills. The appellant-claimant got examined P.W.3-Dr.T.Narsing Rao, who deposed that the appellant-claimant sustained 70% disability due to the accidental injuries and that he issued Ex.C.1-Disability Certificate basing on Ex.C.2-X-ray film. P.W.3-Dr.T.Narsing Rao is in a habit of issuing exaggerated Wound Certificates. This Court and the Tribunals at Nizamabad discarded his oral testimony and declined to act upon the certificates issued by him in many cases. In an appeal, this Court directed to prosecute P.W.3-doctor. Hence, the Tribunal rightly declined to act upon the oral testimony of P.W.3 and the Disability Certificate issued by him under Ex.C.1. Admittedly, the appellant-claimant has not subjected himself for examination before the competent Medical Board in the District Headquarters

Hospital to assess the disability sustained by him in the subject accident. Considering the totality of the circumstances, the Tribunal granted a compensation of Rs.30,000/- for the injuries suffered by the appellant-claimant in the subject accident, Rs.5,000/- towards treatment expenditure, Ex.4,289/- towards medical expenses and Rs.5,000/- towards extra-nourishment and transportation charges. In all, the Tribunal granted a compensation of Rs.44,289 rounded off to Rs.44,300/- with interest @ 7.5% per annum from the date of petition till realisation in favour of the appellant-claimant. Grant of said compensation by the Tribunal is just and reasonable in the facts and circumstances of the case. There are no circumstances to enhance the compensation. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed. No costs.

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

AUGUST 31, 2018
YVL

Dr. SHAMEEM AKTHER, J

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER



M.A.C.M.A.No.1131 of 2006

Date:31.08.2018

YVL