

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
CIVIL MISCELLANEOUS APPEAL No. 2488 of 2004

JUDGMENT:

Dissatisfied with the quantum of compensation of Rs.15,000/- awarded by the Chairman, Motor Accidents Claims Tribunal-cum-Additional District Judge, Nizamabad ('the Tribunal' for brevity), vide order, dated 23.05.2003, passed in O.P.No.635 of 1998, as against the total claim of Rs.1,00,000/-, 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 United India Insurance Company Limited representing the 2nd respondent and perused the record.

3. The learned counsel for the appellant-claimant would submit that the appellant-claimant suffered grievous injuries in the subject road accident. The Tribunal awarded meagre compensation of Rs.15,000/- as against a claim of Rs.1,00,000/- which is contra to the evidence and material on record and ultimately prayed to allow the appeal as prayed for.

4. On the other hand, the learned Standing Counsel for United India Insurance Company Limited representing the 2nd respondent would submit that there is no evidence on record to believe that the appellant-claimant suffered grievous injuries in the subject road accident. No record is found to substantiate the

averment that the appellant-claimant suffered disability. The Tribunal has taken all the factors into consideration and awarded a compensation of Rs.15,000/- with interest at the rate of 9% per annum which is just and reasonable in the facts and circumstances of the case. There are no circumstances to interfere with the same and ultimately prayed to dismiss the appeal.

5. In view of the above rival contentions, the point that arise for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation.

6. There is no dispute that the appellant-claimant sustained injuries in a road accident that occurred on 31.01.1998 due to the rash and negligent driving of the driver of the jeep bearing registration No.MH-31-G-7187. As seen from the entire evidence on record, the appellant-claimant had not filed X-Ray, Case-Sheet etc., to substantiate that she suffered grievous injuries in the subject road accident. Had the appellant-claimant suffered grievous injuries, she would have produced some medical record to substantiate the same. Further, as per the evidence on record, the appellant-claimant has taken treatment in Government Hospital, Nizamabad. Dr.L.Ramulu, said to have treated the appellant-claimant, deposed as P.W.3. In the absence of medical record as indicated above, i.e., X-Rays, Case-Sheet etc., it is difficult to believe the ocular evidence of the doctor in this case. The Tribunal has taken all the factors into consideration and awarded just and reasonable

compensation. There is nothing to take a different view. The Civil Miscellaneous Appeal is devoid of merit and is liable to be dismissed.

7. In the result, the Civil Miscellaneous Appeal is dismissed.

Miscellaneous Petitions pending, if any, shall stand closed.

No order as to costs.

Dr. Shameem Akther, J

04th June, 2018
Bvv

