

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2819 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.1,05,000/- with proportionate costs and interest at 9% 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 Accident Claims Tribunal – cum – V Additional District and Sessions Judge, Nalgonda at Miryalguda (for short, “the Tribunal”) *vide* order, dated 27.06.2005, passed in O.P.No.416 of 2003.

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 material on record.

3. Learned counsel for the appellant/claimant would contend that the claimant suffered grievous injuries and there is ample evidence to substantiate the injuries, but the Tribunal granted a compensation of Rs.1,05,000/- 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. On the other hand, the learned Standing Counsel for the New India Assurance Company Limited appearing for respondent No.2 would contend that the Tribunal had taken all the factors into consideration and granted just and reasonable compensation; that

there are no circumstances to vary with the impugned order and ultimately, prayed to dismiss the appeal.

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

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

6. **POINT:-** As per the evidence of P.W.2 – Dr. R.T.S. Naik, the claimant was admitted in Kamineni Hospital, Hyderabad on 09.03.2003 with history of being involved in road accident and at that time, he was unconscious and nasal bleeding was present with contusions 2 x 2 on both sides of fore head. A report of the C.T. scan of the brain of the claimant shows increase in size of left temporal contusions. He was also found to have fracture of right frontal bone. Then, emergency surgery was conducted wherein the left skull of the claimant was opened and damaged portion of brain along with blood clots were removed. Having considered the same, the Tribunal granted an amount of Rs.5,000/- towards transportation, Rs.80,000/- towards extra nourishment and medical treatment; Rs.5,000/- towards pain and suffering, Rs.10,000/- towards compensation for loss of future earnings due to the fracture sustained by the claimant in the accident and Rs.5,000/- towards loss of earning during the period of medical treatment. It is pertinent to state that the claimant suffered road accident on 09.03.2003. In that accident, the claimant suffered fracture to right frontal bone and he was operated. Having taken the same into consideration, the Tribunal granted the above amounts on different counts. The earning capabilities on the date

of occurrence of the accident were taken into consideration by the Tribunal. The Tribunal is justified in granting the said compensation. There is no infirmity in the impugned order. There are no circumstances to vary with the impugned order. The appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, the appeal is dismissed. There shall be no order as to costs.

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

Date : 07.09.2018
AMD

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