

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3266 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.77,880/- with 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 – VII Additional District Judge, Chittoor at Madanapalle (for short, “the Tribunal”) *vide* order, dated 06.08.2005, passed in M.V.O.P.No.160 of 2000.

2. Heard the submissions of Sri Md.Saleem, learned counsel appearing for the appellant/claimant, Sri Mahadeva Kanthrigala, learned counsel for respondent No.3, and Sri S.A.V. Ratnam, learned Standing Counsel appearing for respondent Nos.4 and 5; and perused the record. In spite of service of notice, there is no representation on behalf of respondent No.6.

3. Learned counsel for the appellant/claimant would contend that the Tribunal granted an amount of Rs.77,880/- only as against a claim of Rs.2,00,000/-; that the claimant suffered disability of 40% of vision and other simple and grievous injuries; that the Tribunal took the income of the claimant as Rs.30/- only per day and calculated compensation payable towards 20% disability, which is less; that the Tribunal also granted meagre compensation on other heads and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. Learned counsel appearing for respondent Nos.3 to 5 sought to sustain the impugned order and prayed to dismiss the appeal.

5. In view of the submissions made, the short point that falls for determination is:

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

6. **POINT:-** While dealing with the subject matter of the appeal, the Tribunal relied on the evidence of P.Ws.1 to 3 and Ex.A-2 – wound certificate. As per Ex.A-2, the claimant was found with two lacerated injuries and one cut injury and also one abrasion. His right eye was closed. Inside blood was said to be present. It is said to be a grievous injury. The claimant produced Ex.A-7 – Disability Certificate showing the partial disability of blindness of one eye and disfigurement and 40% visual loss. So, the Tribunal assessed the disability as 20%. The average income of the claimant was assessed at Rs.30/- per day i.e., Rs.900/- per month and Rs.10,800/- per annum. The Tribunal awarded an amount of Rs.20,000/- towards pain and suffering of the injuries, Rs.10,000/- for medical expenses, Rs.3,000/- for transportation, Rs.3,000/- towards extra nourishment and Rs.3,000/- towards assistance. Petitioner was aged 26 years as on the date of accident as per Ex.A-2. The multiplier applied to the claimant was “18” and thus, the claimant was awarded an amount of Rs.38,880/- towards loss of income and in all, the Tribunal granted compensation of Rs.77,880/-. As per the evidence, the subject accident occurred on 20.03.1995. The earning and paying capacities of that day are required to be taken into consideration to

assess and award the compensation. Taking the daily wage of the claimant as Rs.30/- cannot be faulted. The Tribunal had granted compensation on all heads except vision loss. In view of the evidence of P.Ws.1 to 3 and Ex.A-7 – Disability Certificate, it is appropriate to hold that the loss of vision is 10%. So, the claimant is entitled for a sum of Rs.18,440/- in addition to the compensation awarded by the Tribunal. Thus, the claimant is entitled for a sum of Rs.96,320/- and the same is rounded to Rs.97,000/- (Rupees ninety seven thousand only).

7. Accordingly, this appeal is allowed in part modifying the order, dated 06.08.2005, passed in M.V.O.P.No.160 of 2000 by the Tribunal, enhancing the compensation from Rs.77,880/- to Rs.97,000/-. 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 : 17.08.2018
AMD

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