

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3587 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.45,000/- as against a claim of Rs.2,30,000/-, vide order, dated 29.07.2005, passed in O.P.No.1165 of 2000 by the Chairman, Motor Accident Claims Tribunal-cum-IV 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 though the appellant sustained two grievous injuries and one simple injury in the subject accident occurred on 16.11.2000, the Tribunal granted a meagre compensation of Rs.45,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit 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 Dr.L.Ramulu, who issued Ex.A.9-Disability Certificate, is in a habit of issuing exaggerated Wound Certificates. This Court and the Tribunals at Nizamabad have declined to act upon the certificates issued by him in many cases. In an appeal, this Court directed to prosecute him. Hence, the Disability Certificate issued by him under Ex.A.9

cannot be relied upon. Further, the Tribunal is justified in granting a compensation of Rs.45,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit in favour of the appellant-claimant. There are no circumstances to enhance the compensation 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 16.11.2000, due to rash and negligent driving of the driver of the jeep bearing registration No.MH-26-C-4608. The point that arises for determination in this appeal is whether the appellant-claimant is entitled for enhancement of compensation.

6. As per Ex.A.3-Certified copy of Wound Certificate issued by P.W.2-Dr.Avinash, the appellant-claimant sustained the following injuries in the subject accident:

1. **Abrasion 1" x 1" right cheek, simple**
2. **Right wrist swelling**
3. **Left ankle swelling.**

Ex.A.4-Discharge Ticket corroborates Ex.A.3. As per Ex.X.1-Case Sheet and Ex.A.4-Discharge Ticket issued by the Government Hospital, Nizamabad, the appellant-claimant sustained fracture of tibia, left fracture radius lower right. The said injuries are grievous in nature. The appellant-claimant was admitted in Government Hospital, Nizamabad, on 09.05.2000 for treatment of the aforementioned injuries and other surgical injuries and discharged on 18.05.2000. Considering the same, the Tribunal granted an amount of Rs.1,000/- for the simple injury, Rs.10,000/- for two grievous injuries, Rs.10,000/- towards medical expenses,

Rs.10,000/- towards pain and suffering, Rs.2,000/- towards transportation charges and extra-nourishment and Rs.12,000/- towards loss of earnings. In all, the Tribunal granted a compensation of Rs.45,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit. The subject accident occurred on 16.11.2000. The earning capabilities of the persons and the medical expenses in those days were not much. Therefore, The Tribunal rightly assessed and granted the said compensation in favour of the appellant-claimant and this Court do not see any reason to vary the same. There are no circumstances to enhance the compensation. The appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, the appeal is dismissed confirming the judgment and decree, dated 29.07.2005, passed in O.P.No.1165 of 2000 passed by the Chairman, Motor Accidents Claimants Tribunal-cum-IV Additional District Judge (Fast Track Court) Nizamabad. No costs.

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

AUGUST 29, 2018

YVL

Dr. SHAMEEM AKTHER, J

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Date:29.08.2018

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