

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.2475 OF 2003

JUDGMENT:

This appeal is filed by the appellant-claimant under Section 173 of the M.V. Act, aggrieved by the judgment, dated 21.3.2003, in M.V.O.P.No.224 of 1998, passed by the Motor Accident Claims Tribunal-cum-I Addl. District Judge, Guntur, for enhancement of compensation.

2. Heard learned counsel for the appellant, the learned standing counsel for the Insurance Company and perused the record.

3. Learned counsel for the appellant would submit that the Tribunal had taken the monthly income of the appellant at Rs.1,000/-, which is meager. The Tribunal did not award any compensation towards pain and suffering and ultimately, prayed to enhance the compensation.

4. On the other hand, learned counsel for the Insurance Company would submit that the Tribunal had taken all the factors into consideration and awarded adequate and reasonable compensation. There is nothing to take a different view and ultimately, prayed to dismiss the appeal.

5. Admittedly, there is no dispute that the appellant suffered compound fractures due to rash and negligent driving of the driver of Tourist Bus bearing No. ADG 6129 on 18.05.1997 around 4.30 A.M. The only dispute between the parties is with regard to quantum of compensation awarded by the Tribunal. Admittedly, the Tribunal did not award any compensation towards pain

and suffering in favour of the appellant. As per the evidence on record, the appellant suffered compound fractures in his right leg. There is doctor evidence that the appellant suffered 30% disability. The Tribunal had taken that the disability suffered by the appellant at 25%. The Tribunal had also held that the monthly income of the appellant was Rs.1,000/- and awarded compensation of Rs.39,000/- towards 25% disability suffered by the appellant and Rs.60,000/- towards medical expenses. In all, the Tribunal granted compensation of Rs.1,29,000/- with interest at the rate of 8% p.a., The Tribunal did not grant any compensation towards pain and suffering. The appellant is entitled to Rs.21,000/- towards pain and suffering. As far as assessment of compensation by the Tribunal on other heads is concerned, it is just and fair. No interference is warranted. The rate of interest can be enhanced from 8% p.a., to 9% p.a.,

6. In the result, the compensation awarded by the Tribunal is enhanced from Rs.1,29,000/- to Rs.1,50,000/- with interest at 9% p.a., on the entire compensation amount from the date of petition till the date of realization. The respondents shall deposit the enhanced compensation amount within 30 days from the date of this judgment. On such deposit, the appellant/claimant is entitled to withdraw the same.

7. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 04-06-2018
Hsd