

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.293 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.62,000/- as against a claim of Rs.2,00,000/- by the II Additional Chief Judge, City Civil Court, Hyderabad, vide order, dated 24.08.2004, passed in O.P.No.1313 of 2001, 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 appellant-claimant, the learned Standing Counsel for the Oriental Insurance Company Limited representing the 2nd respondent and perused the record.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant sustained one grievous injury and two simple injuries in the road accident occurred on 29.10.2000, due to rash and negligent driving of the driver of the car bearing registration No.AP-09-AF-9649. The Court below granted an amount of Rs.20,000/- for the injuries and pain and suffering, which is meagre. The Court below granted a meagre amount of Rs.3,000/- towards loss of income during the period of treatment. Steel rod was inserted in the right ankle of the appellant-claimant. There is documentary evidence to show that the appellant-claimant was bedridden for three months. The Court below ought to have granted more compensation for the loss of earnings for a period of three months. The Court below

granted meagre compensation on the other heads and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that except the self-serving statements of the appellant-claimant who deposed as P.W.1, no independent witnesses were examined to substantiate the claim of the appellant-claimant. Though certificates were filed to show the injuries sustained by the appellant-claimant in the subject accident, surgery underwent by her and the necessity of operation in future, none was examined to prove those certificates. However, the Court below, taking into consideration the entire oral and documentary evidence on record, granted compensation of Rs.62,000/- on different heads. There are no circumstances to interfere with the same and ultimately prayed to dismiss the appeal.

5. It is not in dispute that the appellant-claimant sustained injuries in the road accident occurred on 29.10.2000, due to rash and negligent driving of the driver of the car bearing registration No.AP-09-AF-9649. So, the only point that arises for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation.

6. To substantiate the claim of the appellant-claimant, she herself deposed as P.W.1 and got marked Ex.A.1-Certified Copy of First Information Report, Ex.A.2-Certified Copy of Charge-sheet, Ex.A.3-Medico Legal patient record of NIMS Hospital, Ex.A.4-Discharge Card issued by NIMS Hospital, Ex.A.5-Medical

prescription and report, Ex.A.6-Bunch of medical bills, Ex.A.7-Certificate issued by NIMS Hospital, Ex.A.8-Salary certificate issued by Taj Krishna, Ex.A.9-Loss of income certificate issued by Taj Krishna, Ex.A.10-X-Ray report, Ex.A.11-X-ray and Ex.A.12-Estimation certificate issued by Apollo Hospital. On behalf of the respondents, R.W.1-Deepika Kadakia, driver of the offending vehicle, was examined and Ex.B.1-Insurance Policy was marked.

7. The Court below, taking into consideration the evidence of P.W.1 and the medical record, granted a compensation of Rs.62,000/- in favour of the appellant-claimant holding that the appellant-claimant sustained (1) Abrasion on left shoulder 2" x 2"; (2) Abrasion on right arm and elbow 4" x 2"; and (3) Contusion in left ankle. Admittedly, injury No.3 is grievous in nature. As per Ex.A.7, the appellant-claimant was bedridden and did not work for three months. It is quite natural when the injury is to the ankle. It prevents a person from working for three months. The Court below granted only Rs.3,000/- towards loss of earnings. The contention of the appellant-claimant is that she was working as Assistant Manager in Taj Krishna Luxury hotel and was drawing Rs.15,000/- per month towards salary. She got marked Ex.A.8 to substantiate the same. Under these circumstances, this Court deems it appropriate to take the monthly salary of the appellant-claimant at Rs.3,000/-. Accordingly, an amount of Rs.9,000/- (Rs.3,000/- x 3) is granted to the appellant-claimant towards loss of earnings for a period of three months. The Court below granted Rs.14,000/- for the

injuries and Rs.6,000/- towards pain and suffering. This Court deems it appropriate to grant Rs.25,000/- on these scores. The Court below granted just and reasonable amount towards medical expenses basing on the evidence on record and there is no infirmity in the same. Thus, the appellant-claimant is entitled for a total compensation of Rs.73,000/-.

8. Accordingly, this appeal is allowed in part modifying the order, dated 24.08.2004, passed in O.P.No.1313 of 2001 by the Court below, enhancing the compensation payable to the appellant-claimant from Rs.62,000/- to Rs.73,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of application till realisation. The other terms of the Order under challenge remain unaltered. On deposit of the compensation, the appellant-claimant is permitted to withdraw the entire amount with interest.

Miscellaneous Petitions pending, if any, shall stand closed.
No order as to costs.

05th July, 2018
Bvv

Dr. SHAMEEM AKTHER, J