

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1316 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.25,000/- as against a claim of Rs.1,50,000/- by the Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Medak at Sangareddy ('the Tribunal' for brevity), vide order, dated 28.12.2004, passed in O.P.No.250 of 2000, the claimants 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 appellants-claimants, the learned Standing Counsel for the 2nd respondent-Insurance Company and perused the record.

3. The learned counsel for the appellants-claimants would submit that the 1st appellant/1st claimant had suffered grievous injuries in the motor accident occurred on 28.01.2000, due to the rash and negligent driving of the driver of the Jeep bearing registration No.KA-39-M-126. The Tribunal had granted a meagre compensation of Rs.25,000/-. The Tribunal did not grant any compensation towards loss of estate, medical expenses etc., 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 submit that the

Tribunal had taken all the relevant factors into consideration and granted just and reasonable amount as compensation. There is no proof that the 1st appellant/1st claimant succumbed to the injuries suffered by him in the subject accident and ultimately prayed to dismiss the appeal by confirming the Order under challenge.

5. Admittedly, the 1st appellant/1st claimant died some time after the occurrence of the subject accident. Admittedly, no Post-mortem examination was conducted. Though P.Ws.1 and 2 (sons of the deceased 1st appellant-1st claimant) were examined on behalf of the appellants-claimants, they are interested witnesses. Hence, much credibility need not be given to their evidence. In the absence of post-mortem examination, it is difficult to hold that the 1st appellant-1st claimant succumbed to the injuries sustained by him in the subject accident.

6. Now the question that falls for determination is whether the appellants-claimants are entitled for enhancement of compensation as claimed. The Tribunal, after analysing the entire evidence on record, held that the 1st appellant-1st claimant died while undergoing treatment for the injuries sustained by him in the subject accident and accordingly granted a compensation of Rs.25,000/- towards 'No Fault Liability'. Ex.A.1 is the Certified Copy of the F.I.R. Ex.A.2 is the Certified Copy of the Charge-sheet. Ex.A.3 is the Certified Copy of the Injury Certificate, which discloses that the 1st appellant-1st claimant was admitted in hospital on 28.01.2000 at 08:00 PM with the

injuries, viz., (i) abrasion over right upper arm, right knee, right leg and medial side of right foot; (ii) abrasion over left knee; (iii) Swelling and deformity of right upper arm, right leg; (iv) tenderness over chest right side; and (v) swelling and deformity over left ankle. Ex.A.4 is the Discharge Card, which discloses that the 1st appellant-1st claimant was admitted in St. Theresa's Hospital, Hyderabad, on 31.05.2000 and was discharged on 03.06.2000 and readmitted on 14.02.2002 and discharged on 16.02.2002. There is also record to show that the 1st appellant-1st claimant surfed simple and grievous injuries in the subject accident. The Tribunal held that to prove the medical bills, none was examined. The 1st appellant-1st claimant ought to have examined somebody connected to the issuance of medical bills to prove the same. However, considering the nature of injuries suffered by the 1st appellant-1st claimant as indicted above, this Court deems it appropriate to award an amount of Rs.25,000/- towards medical expenses and Rs.25,000/- towards other incidental charges, in addition to Rs.25,000/- granted by the Tribunal under 'No Fault Liability'. Thus, the appellants 2 and 3-claimants 2 and 3 are entitled for a total compensation of Rs.75,000/-.

7. Accordingly, this appeal is allowed in part, modifying the order, dated 28.12.2004, passed in O.P.No.250 of 2000 by the Tribunal, enhancing the compensation from Rs.25,000/- to Rs.75,000/- with interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation. On deposit of the compensation, the appellants 2

and 3-claimants 2 and 3 are permitted to withdraw the entire amount along with the interest accrued thereon, equally. The other terms of the Order under challenge remain unaltered.

Miscellaneous Petitions pending, if any, shall stand closed.

No order as to costs.

Dr. SHAMEEM AKTHER, J

02nd July, 2018
Bvv

