

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2889 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-claimant aggrieved by the order dated 06.07.2005 in O.P.No.1326 of 2001 on the file of the Motor Accident Claims Tribunal-cum-III Additional District Judge (Fast Track Court), Nizamabad (for short 'the Tribunal').

2. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for respondent-Insurance Company and perused the record.

3. Learned counsel for the appellant-claimant would contend that though the appellant-claimant suffered grievous injuries, the Tribunal granted meagre compensation of Rs.35,000/- under different heads against the claim of Rs.2,00,000/- and ultimately, prayed to enhance the same.

4. Learned Standing Counsel for the respondent-insurer would contend that the Tribunal took the injuries and the consequences arose therefrom into consideration and granted just and reasonable compensation. There are no circumstances to enhance the same and ultimately, prayed to dismiss the appeal.

5. There is no dispute with regard to the appellant suffering injuries in a road accident that occurred on 14.06.2001 due to the rash and negligent driving of the driver of jeep bearing No.AP25-D-7677. The only dispute is with regard to the quantum of compensation.

6. There is evidence of P.W.2-doctor with regard to the injuries suffered by the appellant. Ex.A3 is the wound certificate issued by P.W.2-doctor, wherein it is mentioned that the appellant suffered fracture of both bones of left leg, dislocation of the left hip joint and an abrasion over the knee joint. No other medical record is filed to substantiate the said injuries. Further, P.W.2 gave Ex.A4-disability certificate, which shows the disability of the appellant as 50%. The Tribunal had dealt with the oral and documentary evidence and granted Rs.15,000/- for fracture of both bones, Rs.5,000/- for dislocation of hip joint and Rs.3,000/- for simple injury. The Tribunal also granted Rs.5,000/- for treatment, Rs.2,000/- towards extra nourishment, Rs.3,000/- for pain and suffering and Rs.2,000/- for transport charges. The appellant ought to have filed X-rays and case sheet to show that he suffered fractures as contended. Time and again, this Court in different cases and the Tribunal at Nizamabad held that P.W.2-doctor was in the habit of exaggerating the injuries and the disability suffered by some patients. The Tribunal held that the appellant could have filed the disability certificate obtained from the competent Medical Board, which he has not done in the instant case. When the appellant has not filed X-rays and case sheet, it is difficult to hold that the appellant has suffered injuries as shown under Ex.A3-wound certificate. However, the Tribunal taking into consideration of the facts and circumstances of the case, granted compensation of Rs.35,000/-, which is just and reasonable. In the circumstances of the case, there are no merits in the appeal and the appeal is liable to be dismissed.

7. In the result, the appeal is dismissed accordingly.

The Miscellaneous Petitions, if any, pending shall stand closed.

No costs.

Dr. SHAMEEM AKTHER, J

Date: 10.09.2018
ssp

