

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2176 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 09.12.2003 in O.P.No.101 of 2002 on the file of the Motor Accident Claims Tribunal-cum-Additional District Judge, Vizianagaram (for short 'the Tribunal').

2. Heard the learned counsel for appellant-claimant and the learned Standing Counsel for 3rd respondent-Insurance Company and perused the record. The appeal against 1st respondent was dismissed for default on 05.01.2012. There is no representation for the 2nd respondent-owner.

3. Learned counsel for the appellant-claimant would contend that the appellant suffered grievous injury to his right shoulder, but the Tribunal granted only Rs.25,000/- on that head, which is meagre and ultimately, prayed to enhance the same to Rs.1,00,000/- as claimed.

4. On the other hand, learned counsel for the 3rd respondent-insurance company would contend that there is only one injury. Considering the same, the Tribunal had rightly granted compensation of Rs.30,500/-. There are no circumstances to enhance the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the only point that arises for determination is, whether the appellant is entitled for enhancement of compensation?

6. There is no dispute with regard to the injuries suffered by the appellant-claimant in a motor accident that occurred on 04.11.2001 due to the rash and negligent driving of the driver of scooter bearing No.AP-35-T-3466. The only dispute is with regard to quantum of compensation.

7. As per the oral and documentary evidence, the appellant suffered fracture to his right shoulder. It is a grievous injury. As the accident occurred on 04.11.2001, the Tribunal has taken into consideration the disability, earning capabilities, medical expenses etc., while assessing the compensation. Considering the totality of the circumstances of the case, the Tribunal justified in granting compensation of Rs.30,500/- with interest @ 9% per annum. There are no merits in the appeal.

8. In the result, the appeal is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed. No costs.

Date: 01.10.2018
ssp

Dr. SHAMEEM AKTHER, J