

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3668 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.35,000/- as against a claim of Rs.3,50,000/- by the Chairman, Motor Accident Claims Tribunal-cum-VI Additional District Judge, Visakhapatnam ('the Tribunal' for brevity), vide order, dated 14.09.2005, passed in M.O.P.No.243 of 2004, the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellant-claimant would contend that though the appellant-claimant suffered grievous and simple injuries in the subject accident occurred on 05.07.2002, due to rash and negligent driving of the driver of the lorry bearing registration No.AP-13-T-3805, the Tribunal granted a meagre compensation of Rs.35,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit as against a claim of Rs.3,50,000/-. The appellant-claimant sustained 40% disability due to the accidental injuries and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 3rd respondent-Insurance Company would contend that the Tribunal had taken the disability suffered by the appellant-

claimant as 30% and granted a compensation of Rs.35,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit, which is just and reasonable. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal by confirming the Order under challenge.

5. It is not in dispute that the appellant-claimant suffered grievous and simple injuries in the subject accident occurred on 05.07.2002, due to rash and negligent driving of the driver of the lorry bearing registration No.AP-13-T-3805. The point that arises for determination in this appeal is whether the appellant-claimant is entitled for enhancement of compensation as claimed.

6. As per the evidence of P.W.3-Dr.B.Uday Kumar, the appellant-claimant sustained fracture of right ankle, fracture on lateral condyle of left tibia and haematoma on right thigh; the appellant-claimant underwent an operation on 16.07.2002; skin grafting was done on 20.07.2002; and the appellant-claimant was discharged from the hospital on 31.07.2002. As per the evidence on record, the appellant-claimant sustained 30% disability due to the accidental injuries. Admittedly, the appellant-claimant has not subjected himself for examination before the competent Medical Board in the District Headquarters Hospital to assess the disability sustained by him. No such report was filed before the Court. However, considering the aforementioned injuries sustained by the appellant-claimant in

the subject accident, the Tribunal granted an amount of Rs.20,000/- for two grievous injuries, Rs.4,000/- towards four simple injuries, Rs.8,000/- towards medicines and treatment and Rs.3,000/- towards past loss of income. In all, the Tribunal granted a compensation of Rs.35,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit.

7. Grant of the aforementioned compensation by the Tribunal in favour of the appellant-claimant is on lower side. Considering the totality of the circumstances, this Court deems it appropriate to grant a compensation of Rs.50,000/- with interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation in favour of the appellant-claimant.

8. Accordingly, this appeal is allowed in part, modifying the 14.09.2005, passed in M.O.P.No.243 of 2004, by the Tribunal, enhancing the compensation from Rs.35,000/- to Rs.50,000/- 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 enhanced amount of compensation, the appellant-claimant is permitted to withdraw the same along with interest accrued thereon. Other terms of the Order under challenge remain unaltered. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

26th September, 2018
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