

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3626 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.44,000/- as against a claim of Rs.1,00,000/- vide order, dated 16.09.2005, passed in O.P.No.559 of 2002 by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge (FTC), Adilabad ('the Tribunal', for brevity), 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 Standing Counsel for the appellant-claimant and perused the record. Despite listing this matter under the caption "For Orders", there is no representation for the 2nd respondent-Insurance Company. This appeal is of the year 2005. Hence, this appeal can be disposed of on merits, basing on the material available on record, without waiting for the learned Standing Counsel for the 2nd respondent-Insurance Company to advance arguments.

3. The learned counsel for the appellant-claimant would contend that though the appellant-claimant suffered fracture to his femur and another injury to his head in the subject accident occurred on 05.04.2002 due to rash and negligent driving of the driver of the auto bearing registration No.AP-01-T-5094, the Tribunal granted a compensation of Rs.44,000/- with interest @ 9% per annum from the date of petition till realisation as against a claim of Rs.1,00,000/-, which is meagre and ultimately prayed to enhance the compensation as claimed.

4. It is not in dispute that the appellant-claimant sustained injuries in the subject accident occurred on 05.04.2002 due to rash and negligent driving of the driver of the auto bearing registration No.AP-01-T-5094. The point that arises for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation as claimed.

5. As per the evidence of P.W.1 (appellant-claimant) and P.W.2- Dr.K.Nageshwar Rao, who treated the appellant-claimant, the appellant-claimant sustained fracture to his left femur and another injury to his head in the subject accident occurred on 05.04.2002. P.W.2-doctor deposed that he conducted surgery on the appellant-claimant and removed excisional orthoplasty left hip joint. He also deposed that the appellant-claimant walks with the help of clutches and he could not attend to any manual work. Considering the same, the Tribunal granted a compensation of Rs.25,000/- for the fracture to left femur, Rs.2,000/- for the simple injury to the head, Rs.5,000/- towards extra-nourishment, Rs.5,000/- towards medical expenses, Rs.2,000/- towards transportation charges and Rs.5,000/- towards loss of income. In all, the Tribunal granted a compensation of Rs.44,000/- with interest @ 9% per annum from the date of petition till realisation in favour of the appellant-claimant.

6. Admittedly, the subject accident occurred on 05.04.2002. The Tribunal ought to have granted some more amounts on all the heads. Under these circumstances, this Court deems it appropriate to grant another Rs.15,000/-, in addition to the amount granted by the Tribunal, towards compensation. Thus, the appellant-claimant is entitled for a total compensation of Rs.59,000/- (Rs.44,000/- +

Rs.15,000/-). The Tribunal granted interest @ 9% per annum on the amount granted as compensation from the date of petition till realisation. This Court is inclined to grant interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation.

7. Accordingly, this appeal is allowed in part, modifying the order, dated 16.09.2005, passed in O.P.No.559 of 2002 by the Tribunal, enhancing the compensation payable to the appellant-claimant from Rs.44,000/- to Rs.59,000/-. The enhanced amount of compensation carries interest @ 7.5% per annum from the date of petition till realisation. The appellant-claimant is permitted to withdraw the entire enhanced amount of compensation along with interest accrued thereon, on deposit. Other terms and conditions imposed by the Tribunal remain unaltered. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

20th September, 2018
Bvv

Dr. SHAMEEM AKTHER, J