

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3688 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/claimant aggrieved by the grant of compensation of Rs.13,100/- with proportionate costs and interest at 9% per annum from the date of petition till the date of payment, as against a claim of Rs.1,00,000/-, by the learned Special Judge for trial of cases under E.C. Act – cum – III Additional Metropolitan Sessions Judge – cum – XVII Additional Chief Judge (MACT), Hyderabad (for short, “the Tribunal”) *vide* order, dated 29.06.2004, passed in O.P.No.2029 of 2002.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant. Though the matter is listed under the caption “For Orders”, there is no representation for respondent No.2. The appeal pertains to the year 2005. So, it can be disposed of basing on the material available on record.

3. Learned counsel for the appellant/claimant would contend that the Tribunal granted an amount of Rs.13,100/- as against a claim of Rs.1,00,000/-, which is on lower side; that the claimant suffered both grievous and simple injuries; that the compensation awarded by the Tribunal towards medical expenses is meagre; that no compensation was awarded towards the expenses incurred for extra nourishment and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. In view of the submissions made by the learned counsel for the appellant, the short point that falls for determination is:

“Whether the appellant/claimant is entitled for enhancement of compensation?”

5. **POINT:-** It is not in dispute that the claimant sustained injuries in a motor accident that occurred on 20.07.2002 due to the rash and negligent driving of the driver of tipper bearing No.AP 04 T 3159. The evidence of P.W.1 and Ex.A-5 reveal that the claimant received fracture of right clavicle and fracture of 4th rib. Ex.A-6 reveals the restricted movement of shoulders. From Ex.A-7 also, it is seen that the claimant suffered fracture injury to his rib, but no X-rays were produced by the claimant to prove the said injuries. The claimant produced medical bills worth Rs.8,073.60 ps., which was marked as Ex.A-8. In support of the same, no prescriptions were filed and no doctor was examined. Considering the same, the Tribunal granted an amount of Rs.5,000/- towards medical expenses, Rs.600/- towards loss of income and Rs.7,500/- for the pain and suffering and in all, granted an amount of Rs.13,100/-. The grant of compensation of Rs.7,500/- for pain and suffering for two grievous injuries is on lower side. So, this is enhanced to Rs.15,000/-. The amount granted on other scores is as per the evidence on record. There is nothing to take a different view. In all, the claimant is entitled for a compensation of Rs.20,600/-. (Rupees twenty thousand six hundred only).

6. Accordingly, this appeal is allowed in part modifying the order, dated 29.06.2004, passed in O.P.No.2029 of 2002 by the

Tribunal, enhancing the compensation from Rs.13,100/- to Rs.20,600/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. On deposit of the compensation, the appellant/claimant is permitted to withdraw the entire amount along with the accrued interest. There is no change in the other directions given by the Tribunal. There shall be no order as to costs.

7. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

Date : 13.08.2018
AMD

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