

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2229 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) is filed by the appellant/The Oriental Insurance Company Limited, aggrieved by the grant of compensation of Rs.2,32,000/- as against a claim of Rs.3,00,000/- to the 1st respondent/claimant, by the Chairman, Motor Accident Claims Tribunal-III, Warangal ('the Tribunal', for brevity), vide order, dated 09.04.2004, passed in O.P.No.449 of 2003.

2. Heard the learned Standing Counsel for the appellant-Insurance Company and perused the record. Despite listing this matter under the caption "For Orders", there is no representation for the 1st respondent/claimant. This appeal is of the year 2005. Hence, this appeal can be disposed of on merits without waiting for the learned counsel for the 1st respondent/claimant to advance arguments.

3. The learned counsel for the appellant-Insurance Company would submit that though as per the records the 1st respondent/claimant sustained eleven injuries in the subject road accident, but no certificate was issued by competent Medical Board to substantiate the same. The Tribunal, relying on the evidence of P.W.2-Dr.P.Kali Prasad Rao, assessed the disability suffered by the 1st respondent-claimant as 40%. The Tribunal took the monthly income of the 1st respondent-claimant as Rs.2,600/-, applied multiplier '17' and awarded Rs.2,12,160/- towards loss of earning capacity. The Tribunal also awarded an amount of Rs.3,900/- towards actual loss of earnings, Rs.616-70 Ps. towards medical expenses and Rs.15,000/-

towards pain and suffering, shock and mental agony. In all, the Tribunal awarded an amount of Rs.2,32,000/- with interest at the rate of 9% per annum from the date of petition till the date of realisation, which is excessive and ultimately prayed to reduce the same.

4. As per the evidence on record, the 1st respondent/claimant was 23 years old as on the date of accident and the suitable multiplier applicable to his age is '17'. The Tribunal rightly assessed the monthly income of the 1st respondent-claimant as Rs.2,600/-. As per the evidence of P.W.2, he examined the 1st respondent-claimant and issued Ex.A.5-Physically Handicapped Certificate, dated 05.11.2003, according to which, the 1st respondent-claimant suffered 40% permanent disability. As per Ex.A.2-Attested copy of Wound Certificate issued by M.G.M.Hospital, Warangal, the 1st respondent-claimant sustained eleven injuries in the subject accident. There is specific evidence of P.W.2-Doctor that limping was present. The Tribunal, having analysed the entire evidence on record, granted compensation to the 1st respondent-claimant, as detailed below.

Loss of earning capacity	Rs.2,12,160/ -
Actual loss of earnings	Rs.3,900/ -
Medical Expenses	Rs.616-70 Ps.
Pain and suffering, shock and mental agony	Rs.15,000/ -
TOTAL	Rs.2,31,676/ - rounded off to Rs.2,32,000/ -

The compensation awarded by the Tribunal is based on evidence on record. There is nothing to take a different view.

5. It is apt to refer to the decision of the Apex Court in Dharampal Vs. State Road Transport Corporation¹, wherein, the Apex Court awarded interest at the rate of 7.5% per annum on the

¹ MANU SC 7680 2008

amount awarded as compensation in the cases of this nature. There are number of other citations, wherein, interest was awarded at the rate of 7.5% per annum on the amount awarded as compensation in the cases of this nature. In view of the same, awarding interest at the rate of 9% per annum on the amount awarded as compensation by the Tribunal is held excessive.

6. Accordingly, this appeal is allowed in part, modifying the order, dated 09.04.2004, passed in O.P.No.449 of 2003 by the Tribunal, only to the extent of reducing the rate of interest from 9% per annum to 7.5% per annum on the amount granted as compensation (Rs.2,32,000/-) from the date of petition till realisation. The other terms of the Order under challenge remain unaltered. On deposit of the compensation, the 1st respondent-claimant is permitted to withdraw the entire amount with interest accrued thereon.

Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

28th June, 2018
Bvv

Dr. SHAMEEM AKTHER, J