

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.135 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.50,000/- towards injuries, as against a claim of Rs.2,00,000/-, by the learned II Additional Chief Judge, City Civil Court, Hyderabad *vide* order, dated 18.10.2002, passed in O.P.No.333 of 2000.

2. Heard the submissions of the learned counsel appearing for the appellant/claimant. There is no representation for respondent No.2/the Oriental Insurance Co. Ltd., though the matter is listed under the caption "For Orders". The matter pertains to the year 2005. So, it can be disposed of on the basis of the material available on record.

3. Learned counsel for the appellant/claimant would contend that the Court below had not granted the compensation on different heads and it granted a lumpsum compensation of Rs.50,000/-, which is meagre; that the claimant suffered loss of income for not cultivating the lands due to head injury and fracture to his left shoulder and the Court below has not considered the same 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 as prayed for?”

5. **POINT:-** To substantiate the claim of the claimant, the claimant deposed as P.W.1 and also examined P.W.2 – Doctor and got marked Exs.A-1 to A-9. Ex.A-1 is the certified copy of F.I.R. Ex.A-2 is the certified copy of Wound Certificate. Ex.A-3 is the certified copy of Medico Legal Record. Ex.A-4 is the Discharge Summary. Ex.A-5 is the Discharge Bill. Ex.A-6 is the C.T. scan report. Ex.A-7 is the Medical bills (5 in number). Ex.A-8 is the Prescriptions (5 in number). Ex.A-9 is the xerox copy of pattadar pass books. On behalf of the respondents, none were examined, but Ex.B-1 – copy of Insurance Policy was marked.

6. The Car bearing No.AP 9Q 6336/offending vehicle was insured under the original of Ex.B-1. The evidence of P.W.2 – Doctor, who was the Assistant Professor of Neuro Surgery at Osmania General Hospital and treated the claimant, reveals that the C.T. scan shows doubtful collection of blood at sinuses and after discharge and at the time of follow-up treatment, the claimant complained head ache and blurring of vision and that the claimant’s vision was also affected. He issued Ex.A-3 - certified copy of Medico Legal Record. In the cross examination, P.W.2 admitted that he is only a Neuro Surgeon and it is only an Opthomologist, who can say about the vision of the claimant. Ex.A-2 shows that the claimant sustained abrasive injury of 1 ½” x ½” on the forehead. It is supported by oral and documentary evidence. As per the evidence of P.W.2 – Doctor, the said injury is grievous. Ex.A-9 – xerox copy of pattadar passbooks disclose that the claimant is an agriculturist. Basing on the evidence of P.Ws.1

and 2 and mainly, Exs.A-2 to A-8, the Court below ought to have granted some more compensation. The Court below granted the compensation of Rs.50,000/- in lumpsum stating that it would meet the ends of justice. As the vision of the claimant was affected, he could not perform his agricultural activities and certainly, there would be loss of income. Considering the totality of the circumstances, an amount of Rs.25,000/- towards loss of income can be added to the amount already awarded.

7. Thus, the appellant/claimant is entitled for a total compensation of Rs.75,000/- (Rupees seventy five thousand only). The Court below awarded interest at the rate of 9% per annum on the amount granted as compensation from the date of petition till realisation. As per the settled legal position, the appellant/claimant is entitled for interest at the rate of 7.5% per annum only on the enhanced amount of compensation.

8. Accordingly, this appeal is allowed in part modifying the order, dated 18.10.2002, passed in O.P.No.333 of 2000 by the learned II Additional Chief Judge, City Civil Court, Hyderabad, enhancing the compensation from Rs.50,000/- to Rs.75,000/- with interest at the rate of 7.5% per annum only on the enhanced amount of compensation 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 conditions or directions imposed by the Court below. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 18.07.2018
AMD



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