

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2597 OF 2005

JUDGMENT:

This appeal is filed by the appellant-claimant under Section 173 of the M.V. Act, aggrieved by the order, dated 19.04.2005, in M.V.O.P.No.667 of 2002, passed by the Motor Accident Claims Tribunal-cum-V Addl. District Judge, Guntur, for enhancement of compensation.

2. Heard the learned counsel for the appellant. No representation for the respondent-insurer. On earlier occasions, the matter underwent several adjournments. This appeal is of the year 2005. Therefore, it can be disposed of on merits.

3. Learned counsel for the appellant would submit that the Tribunal had taken the age of the appellant as 50 years and applied the multiplier 8 instead of 13 as indicated in **SARLA VERMA (SMT) AND OTHERS V DELHI TRANSPORT CORPORATION AND ANOTHER**¹. It is also contended that the appellant suffered 10% disability. There is oral and documentary evidence to substantiate the same. Therefore, the assessment of disability at 5% is erroneous and ultimately, prayed to enhance the compensation as claimed.

4. There is no dispute with regard to suffering of injuries by the appellant due to rash and negligent driving of the Auto bearing No. AP 16 X 1082 by its driver. P.W.2, who is a doctor, had spoken that the appellant suffered 10% disability for the injury suffered by him as mentioned in Ex.A4-C.C. of wound certificate. Admittedly, the

¹ (2009) 6 SCC 121

appellant was subjected to examination by the Medical Board, which is the competent authority to issue disability certificate. After examining the oral and documentary evidence, the Tribunal assessed the percentage of disability as 5%, which is based on record. There is nothing to take a different view. The Tribunal had taken the multiplier 8. As per the evidence on record, the appellant was aged 50 years on the date of accident and injury. The suitable multiplier as contended on behalf of the appellant is 13. the income assessed by the Tribunal is Rs.15,000/- per annum, which is based on evidence on record. Therefore, the loss of earnings payable towards 5% disability suffered by the appellant is calculated as follows. $\text{Rs.15,000/-} \times 13 \times 5\% = \text{Rs.9,750/-}$. The appellant is entitled for the said amount for the loss of earnings, besides the other amount awarded by the Tribunal on other scores i.e., Rs.6,000/- towards simple and grievous injuries. In all, the appellant is entitled to compensation of Rs.15,750/-.

5. In the result, the compensation awarded by the Tribunal is enhanced from Rs.12,000/- to Rs.15,750/-. The appellant is entitled to interest at 7.5% p.a., on the enhanced compensation amount from the date of petition till the date of deposit. On deposit, the appellant is entitled to withdraw the same.

6. Accordingly, the Appeal is partly allowed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 08-06-2018

Hsd