

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2705 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), is filed by the appellant/the United India Insurance Company Limited, challenging the order, dated 09.06.2005, passed in O.P.No.976 of 2002 by the Motor Accident Claims Tribunal-cum-IV Additional District Judge (FTC), Ranga Reddy District at L.B.Nagar ('the Tribunal', for brevity).

2. Heard the learned counsel for the 1st respondent-claimant and perused the record. Despite listing this matter under the caption "For Orders", there is no representation for the appellant-Insurance Company. On 16.07.2018 and 23.07.2018 also, there was no representation for the appellant-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 appellant-Insurance Company to advance arguments.

3. In the grounds of appeal, the appellant-Insurance Company contended that the Tribunal granted excess compensation of Rs.1,66,670/- as against a claim of Rs.1,50,000/- against the medical and documentary evidence on record, which is unsustainable and ultimately prayed to allow the appeal by setting aside the Order under challenge.

4. On the other hand, the learned counsel for the 1st respondent-claimant would contend that the Tribunal had taken all the relevant factors into consideration and granted just and reasonable amount as compensation. There are no circumstances to interfere with the same and ultimately prayed to dismiss the appeal by confirming the Order under challenge.

5. In view of the above, the only point that arise for consideration in this appeal is whether the compensation of Rs.1,66,670/- granted in favour of the 1st respondent-claimant by the Tribunal is liable to be reduced.

6. It is not in dispute that the 1st respondent-claimant suffered injuries in a motor accident occurred on 19.05.2002, due to rash and negligent driving of the driver of the bus bearing registration No.AP-23-T-5656. Ex.A.3 is the certified copy of Medico Legal record of the 1st respondent-claimant issued by Ram Hospital. It reveals that the 1st respondent-claimant suffered crush injury of right hand exposing the tendons lower end of wrist with fresh and bleeding injuries. Ex.A.8-X-ray film of the 1st respondent-claimant reveals fracture of lower end of right radius and ulna and fracture of base of the 5th metacarpal bone. The said injuries are grievous in nature. Ex.A.3 also reveals that the 1st respondent-claimant was admitted as in-patient in Ram Hospital on 19.05.2002 and was discharged on 29.05.2002. The 1st respondent-claimant underwent an operation. As per Ex.A.10-Disability Certificate issued by the Medical Board, Gandhi Hospital, the 1st respondent-claimant sustained post traumatic wrist and finger deformity of right hand; and, the disability was assessed at 40%. The 1st respondent-

claimant is 14 years old as on the date of accident and was a student studying 7th standard. Considering the totality of the circumstances, the Tribunal granted an amount of Rs.90,000/- towards loss of future earnings, Rs.35,000/- towards pain and suffering, Rs.23,670/- towards hospital bills, Rs.10,000/- towards pharmacy bills, Rs.3,000/- towards transportation charges and Rs.5,000/- towards extra nourishment. In all, the Tribunal granted an amount of Rs.1,66,670/- as compensation with interest @ 9% per annum from the date of petition till the date of payment. The findings of the Tribunal are based on evidence on record. The Tribunal rightly assessed and granted compensation on different heads. There is nothing to take a different view.

7. The Tribunal granted interest at the rate of 9% per annum on the amount granted as compensation. It is apt to refer to the decision of the Apex Court in *Dharampal Vs. State Road Transport Corporation*¹, wherein, the Apex Court awarded interest at the rate of 7.5% per annum on the amount awarded as compensation. 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 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.

8. Accordingly, this appeal is allowed in part, modifying the Order, dated 09.06.2005, passed in O.P.No.976 of 2002 by the Tribunal, only to the extent of reducing rate of interest from 9% per annum to 7.5% per annum on the amount granted as

¹ MANU SC 7680 2008

compensation (Rs.1,66,670/-) from the date of application 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.

Miscellaneous Petitions pending, if any, shall stand closed.

No order as to costs.

Dr. SHAMEEM AKTHER, J

30th July, 2018
Bvv

