

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3426 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.77,500/- as against a claim of Rs.1,00,000/- by the Chairman, Motor Accident Claims Tribunal-cum-VIII Additional District Judge (FTC), Guntur ('the Tribunal', for brevity), vide order, dated 23.08.2005, passed in M.V.O.P.No.697 of 2003, the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for both the sides and perused the record.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant suffered 40% disability. He suffered crush injuries, movements of his right subtler joint are completely restricted and he lost one academic year due to the subject accident. There is evidence of the doctor to that effect. The Tribunal granted a meagre compensation of Rs.77,500/- against a claim of Rs.1,00,000/- and ultimately prayed to allow the appeal by setting aside the Order under challenge. In support of his contentions, the learned counsel relied on a decision of the Apex Court in Kishan Gopal and another Vs. Lala and others¹.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that the Tribunal justified in granting compensation of Rs.77,500/- on different

¹ 2013 (6) ALD 59 (SC)

heads considering the injuries suffered by the appellant-claimant and the consequences arose therefrom. There is noting to take a different view and ultimately prayed to dismiss the appeal by confirming the Order under challenge.

5. It is not in dispute that the appellant-claimant suffered injuries in a motor accident occurred on 11.07.2003, due to rash and negligent driving of the driver of the lorry bearing registration No.AP-03-U-4724. The only point that arises for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation.

6. In Kishan Gopal's case cited supra, the deceased was a 10 years boy assisting his father in agricultural operations. The Apex Court took the notional income of the deceased therein at Rs.30,000/- per annum instead of Rs.15,000/- taken by the adjudicating authority therein. In the instant case, the Tribunal took the notional income of the appellant-claimant as Rs.15,000/- per annum, applied multiplier '15', assessed the disability suffered by the appellant-claimant at 30% and awarded an amount of Rs.67,500/- towards loss of earnings. The Tribunal further granted Rs.5,000/- for crush injury, Rs.1,500/- towards medical expenses and Rs.3,500/- towards pain and suffering. In all, the Tribunal granted an amount of Rs.77,500/- as compensation with interest @ 6% per annum from the date of petition till the date of deposit.

7. As per the evidence of P.W.2-Dr.Y.Seetharamanjaneyulu, the appellant-claimant suffered the following injuries in the subject accident:

1. A lacerated injury of 3" x skin deep planter aspect of the right foot.
2. Crush injury of left ankle bone.

X-ray shows fracture proximal phalanx of first right toe.

Second injury is right fracture of right calcaneum of right navicular fracture cuboids : fracture talus : fracture of fourth metatarsal.

The Tribunal assessed the disability suffered by the appellant-claimant as 30%. There is justification in taking the disability suffered by the appellant-claimant at 30% and applying multiplier '15' to the age of the appellant-claimant, i.e., 14 years. However, the earning capability of a person differs from place to place. Considering the facts and circumstances of the case and in view of the decision of the Apex Court in Kishan Gopal's case cited supra, this Court deems it appropriate to grant another Rs.22,500/- for the consequences arose from the accidental injuries, in addition to Rs.77,500/- granted by the Tribunal towards compensation. Thus, the appellant-claimant is entitled for a total compensation of Rs.1,00,000/- as claimed. The Tribunal granted interest @ 6% per annum on the amount granted as compensation from the date of petition till the date of deposit. This Court deems it appropriate to grant interest @ 7.5% per annum on the amount granted as compensation from the date of petition till realisation.

8. Accordingly, this appeal is allowed, modifying the order, dated 23.08.2005, passed in M.V.O.P.No.697 of 2003 by the Tribunal, enhancing the compensation payable to the appellant-claimant from Rs.77,500/- to Rs.1,00,000/- with interest @ 7.5% per annum from the date of petition till realisation. The other terms of the Order under challenge remain unaltered. On deposit

of the compensation, the appellant-claimant is permitted to withdraw the entire amount with interest accrued thereon.

Miscellaneous Petitions pending, if any, shall stand closed.
There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

06th August, 2018
Bvv

