

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2940 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.38,000/- as against a claim of Rs.2,00,000/- by the Chairman, Motor Accident Claims Tribunal (FTC)-cum-VI Additional District Judge, Kamareddy ('the Tribunal' for brevity), vide order, dated 24.06.2005, passed in O.P.No.1725 of 2001, 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 the appellant-claimant, the learned Standing Counsel for National Insurance Company Limited representing the 2nd respondent-Insurance Company and perused the record.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant suffered one grievous and two simple injuries in the subject road accident. The same is substantiated by producing the hospital records and by examining P.W.2-Dr.T.Narsing Rao. As per the evidence of P.W.2, the appellant has suffered 40% disability, but the Tribunal had not granted any compensation under this score. Further, the Tribunal had not granted compensation towards pain and suffering, loss of earnings and past and future medical expenses and ultimately prayed to enhance the compensation as prayed for.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that the evidence of

P.W.2-Dr.T.Narsing Rao cannot be taken into consideration in view of certain observations made by this Court in C.M.A.No.3518 of 2004, wherein, this Court directed the Tribunal at Nizamabad not to depend solely on the evidence of the said doctor for fixing the compensation to the claimants, as the said doctor is in the habit of issuing false disability certificates and he is a stock witness in many M.V.O.Ps. Therefore, the Tribunal had rightly disbelieved the evidence of P.W.2. Further, the Tribunal calculated the compensation payable to the appellant-claimant on all scores and granted Rs.38,000/- as compensation, which is quite just and reasonable. There are no circumstances to vary the same and ultimately prayed to dismiss the appeal.

5. It is not in dispute that the appellant-claimant suffered injuries in a road accident that occurred on 11.03.2001 due to the rash and negligent driving of the driver of the Jeep bearing registration No.AP-25-T-5166. So, the only question that arises for determination in this appeal is whether the appellant-claimant is entitled for enhancement of compensation.

6. To substantiate his claim, the appellant-claimant himself deposed as P.W.1, got examined Dr.T.Narsing Rao as P.W.2 and got marked Ex.A.1-First Information Report, Ex.A.2-Charge-sheet, Ex.A.3-Wound Certificate, Ex.A.4-Prescription, Ex.A.5-Cash Receipt, Ex.A.6-Laboratory reports, Ex.A.7-Policy Cover Note, Ex.A.8-Disability Certificate, Ex.X.1-Case record issued by A.O., District Headquarters Hospital, Nizamabad, Ex.X.2-True copy of Injury Certificate issued by A.O., Government Headquarters Hospital, Nizamabad. No oral and documentary evidence has been adduced on

behalf of the 2nd respondent-Insurance Company. Admittedly, the appellant-claimant got examined P.W.2-Dr.T.Narsing Rao to prove the disability suffered by him. In view of the observations of this Court in C.M.A.No.3518 of 2004 to the effect that P.W.2 is in the habit of issuing false disability certificates, it is not appropriate to rely on the testimony of P.W.2 and the Tribunal was right in disbelieving the same. Admittedly, the appellant-claimant did not get himself examined by the competent Medical board at District Headquarters Hospital for assessing the disability suffered by him. Basing on the contents of Ex.A.1-F.I.R. and Ex.A.2-Charge-sheet coupled with the evidence of P.W.1, it can be safely concluded that the appellant-claimant sustained injuries in the subject accident. As per Ex.A.3-Wound Certificate, the appellant-claimant sustained the following injuries:

1. One grievous injury to left leg, fracture of both legs.
2. Simple injury on left leg a lacerated wound of 2" x 1" x 1".
3. Simple injury to right knee which is abrasion of 1" x 1".

Basing on the above injuries, the Tribunal awarded compensation as follows:-

1. Grievous Injury	:	Rs.20,000/-
2. (2) Simple injuries	:	Rs.6,000/-
3. Future Earnings	:	Rs.12,000/-

TOTAL	:	Rs.38,000/-

7. Admittedly, the Tribunal had not granted any compensation towards pain and suffering, loss of earnings and past and future medical expenses. Hence, the petitioner is entitled for compensation under the above heads, in addition to the compensation granted by the Tribunal. Accordingly, the appellant-claimant is granted a compensation of Rs.10,000/- towards pain and suffering. Admittedly,

the appellant-claimant is an agriculturist. Hence, his monthly income can be taken as Rs.2,500/- per month and, accordingly, he is entitled for Rs.10,000/- towards loss of earnings for a period of four months during the period of rest advised. Further, the appellant-claimant is entitled for Rs.1,500/- towards medical expenses as per Ex.A.5-Cash Receipt. Naturally, the appellant-claimant would have incurred some expenditure for transportation and extra nourishment. Hence, a sum of Rs.3,500/- is granted to the appellant-claimant for the same. Thus, the appellant-claimant is entitled for a total compensation of Rs.63,000/- (Rupees Sixty Three thousand only) (Rs.38,000/- granted by the Tribunal + Rs.10,000/- + Rs.10,000/- + Rs.1,500/- + Rs.3,500/-). The Tribunal granted interest at the rate of 9% per annum on the amount of compensation. This Court is inclined to award interest at the rate of 7.5% per annum on the enhanced amount of compensation.

8. Accordingly, this appeal is allowed in part modifying the order, dated 24.06.2005, passed by the Tribunal, enhancing the compensation from Rs.38,000/- to Rs.63,000/- with interest at the rate of 7.5% per annum on the enhanced compensation from the date of petition till date of deposit. On deposit of the compensation, the appellant-claimant is permitted to withdraw the entire amount with interest. The other terms of the Order under challenge remain unaltered.

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

Dr. SHAMEEM AKTHER, J

14th June, 2018
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