

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A.No.1710 of 2004

JUDGMENT:

Aggrieved by the grant of compensation of Rs.15,000/- as against a claim of Rs.70,000/- by the Motor Accident Claims Tribunal-cum-I Additional District Judge Ranga Reddy District at L.B.Nagar, Hyderabad ('the Tribunal', for brevity), vide order, dated 31.03.2001, passed in O.P.No.229 of 1999, 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 and perused the record. In spite of service of notice on the 2nd respondent-Insurance Company, there is no representation on its behalf. This appeal is of the year 2004. 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 2nd respondent-Insurance Company to advance arguments.

3. The learned counsel for the appellant-claimant would contend that the appellant-claimant suffered one grievous injury and four simple injuries in the subject accident. The Tribunal granted a meagre compensation of Rs.15,000/- as against a claim of Rs.70,000/- and ultimately prayed to enhance the compensation as claimed.

4. It is not in dispute that the appellant-claimant suffered injuries in the motor accident occurred on 27.01.1999, due to rash

and negligent driving of the driver of the Jeep bearing registration No.AP-24-T-9899. The only point that arises for consideration in this appeal is whether the appellant-claimant is entitled for enhancement of compensation.

5. To substantiate the claim of the appellant-claimant, the appellant-claimant himself deposed as P.W.1 and got marked Ex.A.1-Certified Copy of the FIR, Ex.A.2-Certified copy of Final Result, Ex.A.3-M.L.C., Ex.A.4-Discharge summary, Ex.A.5-Discharge bill, Ex.A.6-Medical bills, Ex.A.7-bunch of reports and Ex.a.8-X-ray film. The evidence of P.W.1 reveals that he received injuries in the subject accident, one year prior to the date of his deposition; when he was proceeding on a scooter from Hyderabad to Koheda along with one Karunakar Reddy, the offending Jeep bearing registration No.AP-24-T-9899, being driven by its driver in a rash and negligent manner, dashed against his scooter, as a result of which, he fell down and received injuries to his right leg; he was shifted to Kamineni Hospital, where he took treatment as in-patient for eleven days and spent Rs.20,000/- for treatment; Thereafter, he took treatment in a private hospital. He further deposed that he was again admitted in Ahinava Hospital, where, he underwent operation, a rod was inserted in his right thigh and that he suffered disability. In the cross-examination of P.W.1, he reiterated the statements made by him in his examination-in-chief. Ex.A.6 reveals fracture of right thigh and insertion of a nail in right thigh of the appellant-claimant. As per Ex.A.3-Medico Legal Certificate, the appellant-claimant suffered one grievous injury and four simple injuries. The Tribunal simply granted Rs.10,000/-

towards pain and suffering and Rs.5,000/- towards medical expenses. In all, the Tribunal granted Rs.15,000/- as compensation. The Tribunal had not properly analysed the entire evidence on record while assessing and granting compensation to the appellant-claimant. Since the appellant-claimant suffered fracture of right femur and underwent a surgery, this Court deems it appropriate to grant an amount of Rs.20,000/- towards pain and suffering. The appellant-claimant is also entitled for Rs.9,000/- towards loss of earnings @ Rs.3,000/- per month for three months. Further, the appellant-claimant is also entitled for Rs.10,000/- towards medical expenses and another Rs.5,000/- towards extra-nourishment, transportation and attendant charges. Thus, the appellant-claimant is entitled for a total compensation of Rs.44,000/- (Rupees Forty Four thousand only) (Rs.20,000/- + Rs.9,000/- + Rs.10,000/- + Rs.5,000/-). The Tribunal granted interest @ 12% per annum on the amount granted as compensation from the date of petition till the date of deposit. This Court is inclined to grant interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation.

6. Accordingly, this appeal is allowed in part, modifying the order, dated 31.03.2001, passed in O.P.No.229 of 1999 by the Tribunal, enhancing the compensation payable to the appellant-claimant from Rs.15,000/- to Rs.44,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of application 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

09th August, 2018
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