

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

MA.CMA.NO.3164 OF 2005

JUDGMENT

The claimant is the wife of the deceased M. Halya Naik, who died in the motor accident that occurred on 18.07.2000. She, along with her children, filed O.P.Nos.1496 of 2000 on the file of Principal Motor Accidents Claims Tribunal at Nalgonda, claiming compensation for the death of her husband. In the said accident, she along with her minor child, received injuries. For the injuries sustained by the minor child, O.P.No.1497 of 2000 was filed, and for the injuries sustained by her, she filed O.P.No.1498 of 2000. The Tribunal disposed of all the three claim petitions by common judgment dated 15-10-2004. Challenging the judgment in O.P.No.1498 of 2000, the present appeal is filed, seeking enhancement.

In the claim petition it is stated that on 18-07-2000, at about 5.00 p.m., near Moddgula X - road, when the deceased Mudavath Halya Naik was coming on the motor cycle bearing No. AP 24 C 5782, along with the claimant and their minor son, as pillion riders, lorry bearing No. KA – 28 – 6776, coming from opposite direction, driven by its driver in a rash and negligent manner, dashed the hero Honda motor cycle, and as a result, the husband of the claimant died and claimant and their son - claimant No.3 in the claim petition, received injuries. The further case of the claimant is that in the said

accident, she sustained fracture to right fore-arm and fracture to 2nd and 3rd ribs of right side chest. With these averments, she filed claim petition, claiming compensation of Rs.1,00,000/-.

The insurance company filed counter affidavit denying the manner of accident alleged by the claimant and the injuries sustained by her and sought for dismissal of the claim petition.

The Tribunal, appreciating the entire evidence, categorically recorded finding of fact that the accident occurred due to rash and negligent driving of the driver of the crime lorry. It awarded an amount of Rs.1,000/- to simple injury and Rs.5,000/- each to two grievous injuries and thus in all awarded an amount of Rs.11,000/- with simple interest at the rate of 9 per cent per from the date of claim petition till the date of the award and thereafter at the rate of 6 per cent till the date of realization and the both the insured and insurer of the crime lorry were made jointly and severally liable. Seeking enhance of compensation, the present appeal is filed by the claimant / injured.

Heard the learned counsel for the petitioner and Smt. P.Satya Manjula, learned Standing Counsel for the 2nd respondent – insurance company, who opposing the enhancement of compensation, submitted that the Tribunal, appreciating the entire evidence, both oral and documentary, awarded just compensation and hence the appeal may be dismissed.

Since the present appeal is filed seeking enhancement of compensation by the claimant, the findings on other aspects, need not be gone into and the appeal is confined to quantum.

As per the material on record and the evidence of the claimant as P.W.1 and Ex.A-9 wound certificate, the claimant received one simple injury of fracture to right fore-arm and fractures to 2nd and 3rd ribs on right side chest, which are grievous in nature. The amount of Rs.1,000/- awarded to the simple injury, and Rs.5,000/- each to two grievous injuries awarded by the Tribunal, in my considered view, is meagre and the same requires enhancement. Accordingly, for the simple injury, the amount of Rs.1,000/- granted by the Tribunal, is enhanced to Rs.5,000/- and for two grievous, the amount of Rs.10,000/- awarded by the Tribunal, is enhanced to Rs.20,000/-. Thus, the claimant is granted an amount of Rs.25,000/- towards three injuries i.e., one simple and two grievous.

The Tribunal has not granted any amount towards pain and suffering, extra nourishment and transport. Taking into consideration the nature of injuries sustained by the claimant, an amount of Rs.25,000/- is awarded under these heads.

Thus, in all, the claimant is granted an amount of Rs.50,000/- (Rupees fifty thousand only) towards compensation, within interest at the rate of 7.5 per cent per annum from the date of the claim petition, till the date of payment.

The appeal is accordingly allowed in part to the extent indicated above.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

A.RAJASHEKER REDDY,J

DATE:29—03—2019

AVS

