

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1016 of 2005

JUDGMENT:

This appeal, under Section 173 of Motor Vehicles Act, 1988, is filed by the appellant/petitioner, challenging the order, dated 29.11.2004, passed in O.P.No.1243 of 2001 by the XII Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad, whereby, on a petition filed by the appellant/petitioner under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') claiming compensation of Rs.1,00,000/- with interest at 24% per annum and costs for the injuries sustained by her in a motor accident, the Court below awarded compensation of Rs.12,500/- with interest at 9% per annum from the date of filing of petition till the date of deposit.

2. Heard Sri P. Ramakrishna Reddy, learned counsel for the appellant/petitioner, Sri V.Sambasiva Rao, learned standing counsel for Respondent No.4/United India Insurance Company and Sri T.Ramulu, learned standing counsel for Respondent No.2/New India Assurance Company and perused the record.

3. The learned counsel for the appellant/petitioner would contend that the appellant/petitioner has suffered grievous injuries on wrist and head etc., in the subject motor accident. Though the appellant/petitioner incurred considerable medical expenses, the Court below granted only Rs.12,500/- towards medical expenses, which is meager and ultimately prayed to enhance the compensation as prayed for.

4. Learned Standing Counsel for respondent Nos.2 & 4/Insurance Companies would contend that the appellant/petitioner did not suffer any fracture injury. There are no receipts to show medical expenses incurred by the appellant/petitioner. The Court below is justified in awarding a compensation of Rs.12,500/- with interest at 9% per annum from the date of filing of the petition till the date of deposit and ultimately prayed to dismiss the Civil Miscellaneous Appeal.

5. As seen from the record, Ex.A.4 is medical certificate of the appellant/petitioner, which reveals that the appellant/petitioner suffered blunt injury on left wrist joint and another blunt injury on the overhead. As rightly contended by the learned Standing Counsel for respondent Nos.2 & 4/Insurance Companies, there is no mention of fractured injury in Ex.A.4. Admittedly, the appellant/petitioner has not filed any medical receipts and also documents to establish the medical expenses said to have been incurred by her. While calculating the compensation, the Court below had awarded compensation under different counts such as transportation charges, medical treatment and extra nourishment, loss of earnings, damages towards clothing, pain and suffering and for two simple injuries and in all, granted compensation of Rs.12,500/-, taking into account the earning capabilities etc., prevailed in the year 2000. The Court below is justified in granting compensation as indicated above. There is nothing to take a different view.

6. It is contended that since the subject tractor-trailer was insured with the respondent Nos.2 & 4/insurance companies, the

Court below ought to have directed the respondent Nos.2 & 4/insurance companies to pay compensation awarded jointly and severally, along with other respondents. Admittedly, a group of people, including the appellant/petitioner, were traveling in the subject tractor-trailer on the date of accident. There is violation of terms and conditions of the insurance policy. In the connected matters vide C.M.A.Nos.2949 of 2011 and 3641 of 2011, this Court, vide order dated 19.12.2011, was pleased to exonerate the respondent Nos.2 & 4/Insurance Companies from its liability. Under these circumstances, the tribunal justified in passing the order under challenge and there is nothing to interfere with the same. The Appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, the MACMA is dismissed. No costs.

Miscellaneous petitions, if any, pending in this Appeal, shall stand closed.

28th November, 2019
Vvr

Dr. SHAMEEM AKTHER, J