

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

M.A.C.M.A. No.2390 OF 2005

JUDGMENT:

The petitioner in O.P.No.2038 of 2001 filed this appeal against the order and decree dated 24.08.2004 passed by the Motor Accident Claims Tribunal-cum-I Additional District Judge, Nizamabad, in the said O.P., seeking enhancement of compensation. By the said order, the Tribunal granted compensation of Rs.36,000/- along with interest @ 9% per annum from the date of petition till the date of realisation of the amount.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the O.P. before the Tribunal.

3. The case of the petitioner, who is injured, is that on 28.09.2000, when he and another person were going on a cycle and when they reached near Polytechnic College, Nizamabad, an auto rickshaw bearing No.AP 25T/8407 being driven by its driver in a rash and negligent manner and in high speed came from their behind and dashed them, due to which, they fell down. The petitioner received multiple and grievous injuries on his legs, hands, head, back and other parts of the body. He was shifted to Government Hospital, Nizamabad, and from there, to Gandhi Hospital, Secunderabad. He has spent Rs.40,000/- towards medical expenses and still he is taking treatment with private doctors. Hence, he filed the said O.P. claiming compensation of Rs.2,00,000/-.

4. To substantiate his case, the petitioner examined himself as P.W.1, examined Dr.T. Narsing Rao as P.W.2 and got marked Exs.A.1 to A.17. On behalf of the contesting respondent, R.W.1 was examined and Exs.B.1 and B.2 were marked.

5. The Tribunal, on appreciation of oral and documentary evidence available on record, granted Rs.15,000/- towards fracture and other injuries; Rs.2,000/- towards two abrasions, Rs.10,000/- towards pain and suffering, Rs.5,000/- towards medical expenses and extra nourishment, and Rs.4,000/- towards loss of earnings. In total, the Tribunal awarded compensation of Rs.36,000/- along with interest @ 9% per annum from the date of petition till the date of realisation. Dissatisfied with the quantum of compensation awarded by the Tribunal, the petitioner preferred this appeal.

6. Learned counsel for the appellant submits that though the appellant suffered serious injuries and fractures to the spinal cord and the same is evident from Ex.A.3, the Tribunal granted a meagre compensation of Rs.36,000/-. He further submits that the Tribunal ought to have considered Ex.A3-wound certificate since it was issued by the Government Doctor at the instance of the police. He placed reliance on the judgment of the Hon'ble Supreme Court in **Anant son of Sidheshwar Dukre vs Pratap son of Zhamnnappa Lamzane**¹, wherein it was held that the Second Schedule to the Motor Vehicles Act, 1988 (for short 'the Act') has

¹ (2018) 9 SCC 450

now become redundant due to changed economic conditions, and prayed to enhance the compensation.

7. On the other hand, the learned Standing Counsel for the second respondent – National Insurance Company submits that the evidence of P.W.2-Dr.T.Narsing Rao was disbelieved by the Tribunal, as he is a stock witness in several cases of such nature, and that based on the evidence available on record and Second Schedule to Section 163-A of the Act, the Tribunal granted just compensation to the appellant for the injuries suffered by him and hence, no interference is called for by this Court.

8. A perusal of the impugned order and decree shows that P.W.2-Dr.T.Narsing Rao is a stock witness in several cases of this nature and habituated to give routine evidence to help the claimants, and the said aspect is not disputed. Therefore, the Tribunal rightly disbelieved his evidence.

9. Based on the evidence of P.W.1 and Exs.A.1 to A.3, the Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the auto rickshaw and the appellant suffered grievous injuries in the said accident. Ex.A.3 – wound certificate issued by the Governmental Medical Officer at the instance of the jurisdictional police shows that the appellant suffered fracture of spinal cord and also two abrasions.

10. In view of the judgment of the Hon'ble Supreme Court in **Anant's case (supra)**, and since the compensation granted by the

Tribunal is meagre, this Court is of the view that the same needs to be enhanced.

11. Accordingly, the amount of Rs.15,000/- granted by the Tribunal towards fracture and other injuries is enhanced to Rs.25,000/-; Rs.2,000/- granted towards two abrasions is enhanced to Rs.10,000/-; Rs.10,000/- granted towards pain and suffering is enhanced to Rs.25,000/-; Rs.5,000/- granted towards medical expenses and extra nourishment is enhanced to Rs.10,000/- towards extra nourishment and Rs.4,000/- granted towards loss of earnings is enhanced to Rs.5,000/-. The compensation is accordingly enhanced from Rs.36,000/- to Rs.75,000/-. The said amount shall carry interest @ 7.5% per annum.

12. The appeal is accordingly allowed in part.

Pending miscellaneous petitions, if any, shall stand closed.

No order as to costs.

A. RAJASHEKER REDDY, J

Date: 19.02.2019

va