

**THE HONOURABLE SRI JUSTICE K.LAKSHMAN**

**MACMA NO. 500 OF 2007**

**JUDGMENT:**

Heard learned counsel for the appellant/claimant and learned counsel for the 2<sup>nd</sup> respondent/Insurance Company.

2. Assailing the order dated 05.12.2006 in O.P. No. 295 of 2004 (Old O.P.No.1245 of 2003) passed by the Motor Accidents Claims Tribunal-cum-II Additional District Judge,, Nalgonda at Suryapet (for short 'the Tribunal'), the appellant/claimant filed the present appeal for enhancement of compensation.

3. Vide the aforesaid order, the Tribunal granted an amount of Rs.8,000/- towards compensation i.e. Rs.5,000/- towards pain and suffering, Rs.2,000/- towards loss of income and Rs.1,000/- towards medical expenses, along with costs and interest @ 7.5% per annum from the date of petition till the date of deposit. The Tribunal directed the owner of the auto and insurance company to deposit the compensation amount and also permitted the claimant to withdraw the entire amount.

4. According to the appellant, the Tribunal did not consider the age of the claimant and the nature of injury while awarding the compensation. It is also contended that

though the claimant filed Ex.A.6-cash bill for Rs.3,000/-, the Tribunal only granted Rs.1,000/- and hence, prayed to grant just compensation.

5. Per contra, learned counsel appearing for the Insurance Company would contend that the claimant did not plead his age and wage and failed to establish the grievous injury caused to him in the accident by examining any witness or filing any document and hence, prayed to dismiss the appeal.

6. On perusal of the impugned order, there is no pleading with regard to the age and wage of the claimant except that he was hale and healthy prior to the accident, but after the accident, he was not in a position to do any work and has spent more amounts for treatment. Admittedly, claimant has not examined any witness including doctor to establish that he sustained grievous injury in the accident. The Tribunal did not assign any reason for reduction of Rs.1,000/- towards bills instead of Rs.3,000/- as per Ex.A.6. It is the case of the claimant that he received grievous injury and he was shifted to Government Hospital for treatment and the police registered a case in Crime No.150 of 2003 for the offence punishable under Section 337 IPC against the driver of the auto and charge sheet was filed under Section 338 IPC.

7. Considering the said fact and also the fact that the police charged the auto driver under Section 338 IPC vide Ex.A.4, which would disclose the fact that the claimant received grievous injury/grievous hurt, and there was a finding by the Tribunal that the claimant sustained grievous injury to the left shoulder, this Court inclined to enhance the compensation from Rs.8,000/- to Rs.41,000/- i.e. Rs.25,000/- towards grievous injury, Rs.3,000/- towards cash bill as per Ex.A.6-cash bill instead of Rs.1,000/-, Rs.6,000/- towards loss of earnings instead of Rs.2,000/-, Rs.5,000/- towards pain and suffering and Rs.2,000/- towards extra-nourishment. Thus, in all a sum of Rs.41,000/- is granted. Since both the respondents are jointly and severally liable to pay the compensation, they are directed to deposit the compensation amount along with interest @ 7.5% per annum from the date of petition to the date of realisation within one month from the date receipt of a copy of the judgment.

8. Accordingly, the appeal is allowed-in-part to the extent indicated above. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

**K.LAKSHMAN,J**

Date: 21.01.2020.  
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