

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

M.A.C.M.A.NO.139 OF 2013

JUDGMENT:

The present appeal is filed by the appellant aggrieved by the order and decree dated 31.01.2012 made in MVOP No.22 of 2006 on the file of IX Additional District Judge-cum-Chairman, Motor Accidents Claims Tribunal (FTC), Chittoor in disallowing the interest for the period from 12.06.1991 to 10.01.2006 and also partly allowing the claim.

The case of the appellant is that he filed M.V.O.P.No.22 of 2006 under Section 163 (A) of the Motor Vehicles Act, 1988 read with Rules 455 and 475 of the Andhra Pradesh Motor Vehicles Rules, 1989 for grant of compensation of Rs.5,00,000/- together with interest at the rate of 12% per annum from the date of accident, till the date of realization, on the ground that on 16.06.1991 when he was traveling as a Cleaner of the first respondent vehicle bearing No.AAC 9477, while he was proceeding from Hyderabad to Vijayawada, the accident occurred. It is also stated that a case was registered in Crime No.58 of 1991 under Sections 338 and 304-A I.P.C., by Prolu Police against the driver of the first respondent.

It is the case of the appellant that due to the accident, he sustained multiple injuries on both his legs and was taken to the Government Hospital at Nandhigama. As injuries are serious in nature, he was shifted to University General Hospital, Vijayawada for better treatment and he underwent treatment as inpatient for five days, i.e., from 16.06.1991 to 20.06.1991. On 17.06.1991 lower 1/3rd of his left leg was amputated. Later, he was shifted to CMC Hospital, Vellore for treatment, where he was treated as inpatient from 21.06.1991 to 06.07.1991.

The respondents opposed the grant of compensation to the appellant, stating that, the accident took place due to the negligence on the part of the appellant himself and as he is not a third party, the appellant is not entitled to file MVOP.

The court below after considering the evidence of PWs.1 to 4 and

Exs.A-1 to A-13, Ex.B-1 and Exs.X-1, X-1 (a) and X-2, granted compensation of Rs.4,74,404/- along with proportionate costs and interest at the rate of 7.5% per annum, from 10.01.2006 till the date of realization. Aggrieved by the same, the present appeal is filed.

The only grievance of the appellant is that the interest should have been granted by the Tribunal from 12.06.1991 but not from 10.01.2006.

Sri Venugopal Reddy learned counsel appearing for the respondents states that the granting of interest is the discretion of the Tribunal and the Tribunal has considered the issue of interest in para 32 of the judgment and held that since the appellant has not pursued the matter diligently and the delay in disposal of the claim petition was due to the fault of the appellant, granted interest from the date of receipt of the claim petition. The court below has given cogent reasons for not allowing the interest from the date of accident, till the date of filing of the claim petition. As such, no interference is required.

Granting of interest is the discretion of the Tribunal. In para 32 of the order, the Tribunal held as follows:

“As seen from the original claim petition, the petition was filed by the petitioner it appears that the same has been filed on 16.06.1992 before the Motor Accident Claims Tribunal cum District Judge, Vijayawada. As the petitioner has not been properly pursued the matter the petition was not numbered before the said Tribunal immediately after filing of the petition. The OP was not represented on return from the Tribunal at Vijayawada and the same was complied with delay condonation petition of 100 days which was condoned by the Tribunal at Vijayawada. Thereafter also as the petitioner has not been pursued diligently the petition for disposal. Finally it was numbered before the Motor Accident Claims Tribunal at Vijayawada in the year 2005 as MVOP 194/2005. Again on the application of the petitioner under Section 24 CPC the said MVOP was transferred from the Motor Accident Claims Tribunal cum District Judge, Vijayawada to the Motor Accident Claims Tribunal cum District Judge, Chittoor in pursuance of the orders of the Hon'ble High Court of AP in TRANS.CMP No.292/2005 order dated

14th December, 2005. The above claim petition has been received by the Motor Accident Claims Tribunal cum District Judge, Chittoor on 10.01.2006 and numbered as MVOP No.22/2006. Thereafter for sending the notices to the respondents in the claim petition it took considerable larger time. Since the delay in pursuing the proceedings has been caused due to the inactiveness of the petitioner before the Motor Accidents Claims Tribunal at Vijayawada and also due to his filing Transfer application in transferring the petition from Vijayawada to Chittoor at the instance of the petitioner and as such the petitioner in the ends of justice cannot claim interest covering the period from 12.06.1991 to 10.1.2006. Hence, I am of the opinion that the petitioner is entitled to claim interest from 10.1.2006 in the ends of justice. The respondents cannot be penalized to pay interest from 1992 due to the volition on the part of the petitioner in prosecuting his claim petition”.

Though the claim petition is filed by the appellant in the year 1992 i.e., one year after the date of accident, the same was registered as MVOP No.194 of 2005 on the file of the Motor Accident Claims Tribunal at Vijayawada and again the said MVOP was transferred to the Motor Accident Claims Tribunal-cum-District Judge, Chittoor in pursuance of the orders of this Court in Tr.CMP.No.292 of 2005. Thereafter it was numbered as MVOP No.22 of 2006 on 10.01.2006 and the Tribunal considered all these facts and granted interest from 10.01.2006 and as such, the discretion exercised by the Tribunal is not erroneous and arbitrary. In view of the same, I do not find any merit in the appeal.

Accordingly, the appeal is dismissed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY, J

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

M.A.C.M.A.NO.139 OF 2013

DT.04.11.2015

