

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

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MACMA No.601 OF 2005

JUDGMENT:

The claimant, having dissatisfied with the amount of Rs.44,000/- granted as compensation in M.V.O.P.No.782 of 2000 on 21.12.2004 by the Chairman, Motor Accidents Claims Tribunal-cum- III Additional District Judge, Guntur (for short "Tribunal"), against the claim of Rs.1,50,000/- with interest at 9% per annum laid under Section 163-A of the Motor Vehicles Act, 1988 and the Rules framed thereunder, preferred the present appeal.

2. The appellant herein is the claimant, while respondent Nos. 1 and 2 herein, who are owner of the lorry, its insured and insurer respectively, are respondents 1 and 2 respectively, in the O.P before the Tribunal.

3. For the sake of convenience, the parties hereinafter referred to as arrayed in O.P. before the Tribunal.

4. The facts, in brief, are that on 20.06.2000 at about 01.00 AM (night), while the petitioner himself was driving the lorry belonging to the 1st respondent from Palvancha to go to Ramapuram on Khammam to Chilakallu Road, when he reached Bhimvaram Village out-skirts, a tipper lorry came in opposite direction. The petitioner while trying to avoid the accident, dashed against the road margin tree, due to which he received grievous injuries to his right leg, spinal cord, head and right hand and sustained permanent disability. The petitioner was treated in Government Hospital, Jaggaiahpet and then shifted to the Government General Hospital, Guntur and got treated as inpatient. On a report given to the Station House Officer, Vastavai Police Station by the petitioner, the police registered a case in Crime No.61 of 2000 and investigated into the same. POP was applied to his right leg and that there are restricted movements to his right ankle joint and that he cannot walk without assistance of others. The petitioner was aged 45 years at the time of accident, earning Rs.2,000/- per month as salary and Rs.500/- to Rs.600/- per month towards batta by working as a lorry driver and he was unable to do his work on account of accident and, therefore, sought Rs.1,50,000/- towards compensation, making respondents 1 and 2 jointly and severally liable to pay compensation.

5. The 1st respondent remained ex-parte before the Tribunal. The 2nd respondent opposed the claim while contending that there was involvement of opposite vehicle, hence, the owner and insurer of the opposite vehicle are necessary parties and that the petition is bad for non-joinder of necessary parties, since there is collision

between two vehicles and sought to dismiss the claim.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry before the Tribunal, the claimant himself examined as PW.1-Dr G.Mallik, a private doctor, who treated the petitioner, was examined as PW.2 and marked Exs.A1 to A.7 to prove his claim as regards his entitlement for compensation claimed. No witnesses were examined on behalf of the respondents and no documents were filed.

7. On appraisal of evidence, both, oral and documentary, the Tribunal answered issue No.1 that only the petitioner sustained injuries, but no other outsider received injuries, while swerving the lorry towards left side of the road, to avert the accident, when the tipper was coming in opposite direction, and held it in favour of the petitioner.

8. On issue No.2, as to quantum of compensation, the Tribunal having considered the evidence of PW.2, granted Rs.25,000/- towards five injuries i.e. Rs.5,000/- for each injury, Rs.10,000/- towards fracture injury, Rs.4,000/- towards medical expenses and treatment and Rs.5,000/- for pain and suffering. Thus, the Tribunal granted a total sum of Rs.44,000/- with interest at 9% per annum.

9. Heard Sri N.Subba Rao, learned counsel for the appellant. A memo is filed to show that service is effected on respondent No.1. None appears for respondent No.2/insurance company.

10. The claim is laid under Section 163-A of the Motor Vehicles Act. Some how, the Tribunal determined the compensation adverting to the fact of negligence. The order clearly shows that the Tribunal determined the compensation in accordance with Section 163-A of the Act. Hence, the petitioner is not entitled to any enhancement of compensation. Learned counsel for the petitioner also represents that the insurance company has not preferred any appeal challenging the compensation granted by the Tribunal to the petitioner herein. The appeal is therefore, without any merit. Hence, the appeal is dismissed. There shall be no order as to costs.

11. As a sequel, Miscellaneous Applications, if any, pending shall stand dismissed.

A. SHANKAR NARAYANA, J

February 16, 2015.
Kvrm

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DATE: 16.02.2015