

HON'BLE SRI JUSTICE S.V. BHATT

M.A.C.M.A. No. 1595 OF 2005

Date: 04-11-2015

Between:

The New India Assurance Co., Ltd.,
Rep., by its Branch Manager,
Secunderabad.

... Appellant

And

Sri Shaik Saida & another.

... Respondents

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HON'BLE SRI JUSTICE S.V. BHATT

M.A.C.M.A. No. 1595 OF 2005

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JUDGMENT:

Second respondent in O.P.No.1313 of 2000 in the Court of Motor Accidents Claims Tribunal – I Additional District Judge, Nalgonda (for short “the Tribunal”), is the appellant. The appeal is directed against the award dated 31.03.2004, granting compensation of Rs.65,000/- to the 1st respondent herein.

Heard Smt. A. Jayanthi, learned counsel for appellant, and Smt. K.Rajitha for 1st respondent. The parties are referred as arrayed in the O.P.

Briefly stated, the circumstances relevant for the disposal of the appeal are as follows:

On 24.10.2000, at 3.30 p.m., the petitioner was cycling towards the shop of one Prabhakar located on the main road, Kodad. When the petitioner reached Cooperative Bank on the main road, he was hit down by the lorry bearing No.AP-11-T-5343. The petitioner sustained grievous injuries and the cycle was trampled/damaged. According to petitioner, the driver of the offending vehicle was driving the vehicle in a rash and negligent manner. The accident is due to the complete negligent act of the driver of the vehicle and the petitioner sustained fracture injuries as evidenced by Exs.A2 and A3. The vehicle was insured with the 2nd respondent/appellant herein. The petitioner claimed Rs.1,00,000/- under Section 166 of Motor Vehicles Act towards compensation for the injuries sustained by him in the accident.

The 2nd respondent filed counter in the O.P. For the purpose of the appeal, mentioning of relevant objections would suffice viz., on the nature of injuries sustained by the petitioner and the loss of earning capacity etc. It is the case of the 2nd respondent that the injuries alleged to have been occasioned in the accident are incorrect and claimed income is exaggerated and the medical expenses claimed by the petitioner are far from truth.

The Tribunal framed the following points for consideration.

- “(1) Whether the petitioner sustained injuries in the motor vehicle accident and if so whether the accident occurred due to the rash and negligent driving by the driver of lorry bearing No.AP-11-T-5343?
- (2) Whether the petitioner is entitled to any compensation. If so, to what amount and by whom it should be paid?
- (3) To what relief?”

The petitioner examined himself as PW.1 and one Shaik Saida as PW.2 and marked Exs.A1 to A6. The respondents did not adduce either oral or documentary

evidence.

The Tribunal, having regard to the nature of injuries and also that the petitioner underwent treatment at Government Hospital, Kodad, and Mother Teresa Hospital in two different spells, and his stay in the said hospitals in two spells, and after taking note of the fact that the petitioner is an electrician and the income received by him could be about Rs.1,500/- per month, granted comprehensive compensation of Rs.45,000/- with 9% interest per annum from 06.12.2000 till the amount is deposited into the Court. Hence, the appeal questioning the quantum of compensation awarded by the Tribunal.

Learned counsel for the 2nd respondent contends that the injuries suffered by the petitioner are not grievous, that his stay at hospital is very brief and the medical expenses claimed by the petitioner are on the higher side and the Tribunal ought to have distributed the compensation under eligible heads and if such exercise is undertaken by the Court, the compensation determined and directed to be paid is excessive and prays for passing appropriate orders.

Learned counsel for the petitioner contends that the contention of 2nd respondent that the stay in the hospital is brief, is factually incorrect. For the stay either for treatment to the injuries or for post operative recovery spans to more than ten days and the petitioner under medical advice has got the operation performed in a super specialty hospital. The amount of Rs.45,000/- awarded towards compensation towards injuries, loss of income during the stay at hospital during recovery period, nourishment, medical expenses is contended, is not on the higher side.

Now the point for consideration is:

Whether the award of compensation of Rs.45,000/- by the Tribunal in the facts and circumstances of this case warrants interference?

The primary objection for learned counsel for 2nd respondent is that the stay of petitioner is too short and the medical expenses claimed are firstly exaggerated and secondly not proved by the petitioner. I have perused Exs.A2, A3, A4 and A6. What is evident from these exhibits is that immediately after the accident the petitioner was admitted as an inpatient in Government Hospital, Kodad and he was given treatment for two days and on the doctors' advice for operation to be performed on the injuries, he was shifted to Mother Teresa hospital. The certificate covered by Ex.A3 shows the details of injury and the line of treatment, stay at hospital etc. The petitioner was certainly in hospital not for a brief period as contended by the learned counsel for the 2nd respondent. The petitioner works as an electrician and the injury has certainly

impaired his earning capacity during the convalescing period and little later. A bare look at the medical expenses as evidenced by Ex.A4 shows that they are spread over the period of treatment and I do not see any reason to brush them aside. The Tribunal, having a pragmatic view of the matter and with a view to paying just and proper compensation, has not distributed the compensation under various heads. I am satisfied the findings recorded by the Tribunal do not warrant interference.

Appeal is dismissed. No order as to costs.

Miscellaneous petitions, if any, shall also stand dismissed.

S.V. BHATT, J

Date: 04.11.2015
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