

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA No. 3203 of 2005

Judgment:

The second respondent – New India Assurance Company is the appellant herein. Aggrieved by the order, dated 25.03.1994, in OP No.52 of 1989 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Additional District Judge, Hindupur, the instant appeal is preferred challenging the quantum of compensation on the ground that without any basis the Tribunal has awarded the said amount. The Insurance Company also attacked the manner in which accident had occurred and finding recorded thereon.

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

3. The facts, in brief, are that the petitioner, working as Manager in the Union Bank of India, Kirikera, was proceeding to Kirikera on his Scooter on 30.10.1987 and, at about 1.30 PM, when he reached Prashantinagar, Hindupur, a Maruthi Van bearing registration No.CNJ 810 driven by its driver in a rash and negligent manner at high speed came from behind and dashed the Scooter, due to which, he sustained fracture to his left hand and he has undergone surgical intervention and unable to lift his hand freely even on the date of filing the claim petition and, therefore, he sought a sum of Rs.40,000/- towards compensation against the respondents 1 to 3.

4. Before the Tribunal, the first and second respondents filed their respective counters opposing the claim. According to them, the petitioner was not holding valid driving licence. The third respondent remained *ex parte*.

5. The Tribunal, based on the said pleadings, framed three issues in order to fix the responsibility for the accident.

6. During enquiry, the petitioner besides examining himself as PW.1 also examined one Kaggalappa as PW.2 and Dr. Prabhakara Rao as PW.3 and marked Exs.A1 to A5. On behalf of the second respondent – Insurance Company, no witnesses were examined and no documents were filed.

7. The Tribunal, on appraisal of evidence let in by the petitioner, held issue No.1 in favour of the petitioner recording a finding that due to rash and negligent driving of the driver of the Maruthi Van the accident had occurred. On issue No.2, basing on the evidence of PW.3 and the description of injuries, proving that the petitioner sustained fracture to his left forearm and steel blade was fixed on the radius, granted a sum of Rs.20,000/- towards injuries, Rs.1,000/- towards loss of amenities and enjoyment of life and Rs.5,000/- towards medical expenses, making a total of Rs.26,000/- with interest at 12% p.a., thereon.

8. No representation for the appellant – Insurance Company. Heard the learned counsel for the first respondent – claimant. The instant appeal was dismissed against the respondents 2 and 3 for default, by the orders, dated 06.01.2012.

9. Perused the order under challenge and the evidence on record. The very fact that the petitioner sustained fracture to his left forearm and underwent surgical intervention by fixation of steel blade on the radius is sufficient enough to hold that the amount of Rs.26,000/- granted by the Tribunal towards injury, pain and suffering, loss of

amenities and enjoyment of life and medical expenses was not arbitrary or excessive. The appellant has not challenged the rate of interest granted by the Tribunal in which case the order under challenge has to be confirmed in all respects. The instant appeal is, therefore, devoid of merit and the same is liable to be dismissed.

10. Accordingly, the instant MACMA is dismissed. There shall be no order as to costs.

11. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand closed.

A. SHANKAR NARAYANA, J

Date: 28.12.2015

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