

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.419 of 2010

JUDGMENT:

The injured claimant maintained OP No.306 of 2004, under Section 166 of the Motor Vehicles Act (for short 'the Act'), for a compensation of Rs.3,00,000/-, against the owner and insurer of Suzuki motor cycle bearing No.AP 25G 6041, impugning the dismissal/ nil award of the tribunal dated 20.01.2010, maintained the appeal.

2. The factual matrix from the claim petition and findings of the tribunal in the impugned award are that on 22.05.2003 at about 8.30 a.m. the petitioner along with his friend were proceeding on his motor cycle towards Kanteshwar side, when they reached near NTR chowrastha Nizamabad town, one motor cycle bearing No.AP 25G 6041 driven by its rider hit his motor cycle from behind, as a result, the accident occurred and crime No.124 of 2003 was registered against rider of the motor cycle of the 1st respondent. As per F.I.R. of the injured, he was admitted by the rider of the motor cycle of the 1st respondent in Government Hospital, Nizamabad. Ex.A3-injury certificate issued by the Government Hospital, Nizamabad, shows the injured himself came to the hospital on 22.05.2003 and time of admission is not noted. The tribunal having held that the accident proved from the evidence of PW.1 is the result of rash and negligent driving of the rider of the motor cycle of the 1st respondent.

3. Coming to the compensation and entitlement, the tribunal observed that Ex.B1-policy covers the risk. Ex.A3-medical certificate no way refers any X-ray or any radiology report for mentioning of sustaining any fracture. PW.2 is not the doctor, who issued the certificate and deposed that it was issued by Dr.N.Saraswati. The said doctor was not examined. Thereby, the claim was dismissed. In fact, once the medical certificate shows the injured was admitted and F.I.R. contents also co-relate, even not taken for any fracture injury much less for permanent disability orally deposed, at least could have been considered for the injuries mentioned in the wound certificate, four in number as simple injuries, thereby instead of dismissing the claim, the tribunal should have been allowed a compensation of Rs.12,000/- at least including pain and sufferance, medical expenses, transport charges and extra nourishment.

4. Accordingly and in the result, the appeal is partly allowed by setting aside the dismissal/nil award dated 20.01.2010 in O.P.No.306 of 2004 passed by the III Additional District and Sessions Judge (Fast Track Court), Nizamabad, and awarded compensation of Rs.12,000/- with interest at 7.5%p.a. from the date of claim petition till realization. There is no order as to costs.

5. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:24.11.2016
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