

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2642 OF 2009

JUDGMENT:

The present appeal is preferred by respondent No.2 - M/s. New India Assurance Company Limited in M.O.P. No.274 of 2006, on the file of the Chairman, Motor Accident Claims Tribunal - cum - II Additional District Judge, Ranga Reddy District at L.B. Nagar (for short 'the Tribunal'), aggrieved over the order and decree, dated 08-05-2008, passed in the aforesaid MOP, whereby and where-under, the Tribunal awarded a sum of Rs.31,814/- as compensation with interest at 7.5% per annum thereon, as against the claim of Rs.1,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988.

2. Respondent No.2 and the appellant herein, who are owner and insurer of Toyota Qualis bearing registration No.AP 29T 3326, respectively, are respondent Nos.1 and 2, respectively, while respondent No.1 is the petitioner in MOP before the Tribunal.

3. For the sake of convenience, the parties herein are referred to as they were arrayed in MOP.

4. Heard Smt. A. Jayanthi, learned standing counsel for the appellant - insurer, and Sri G.L. Narasimha Rao, learned counsel for respondent No.1 - petitioner. Despite service of notice on respondent No.2 - owner of the vehicle, none appears for her.

5. The only short question that arises for consideration in the instant appeal is, whether the liability of the owner of the vehicle shown as involved and so also the Insurance Company can be sustained for the reason that though, the accident took place on 09-11-2005, even according to the petitioner; it was only on 21-11-2015, the petitioner was admitted in Medicare Hospital and complaint was lodged with the concerned police and, therefore, the learned counsel for the insurer would contend that the Tribunal, somehow, ignored this fact and granted compensation.

6. Per contra, the learned counsel for respondent No.1 - petitioner would contend that both oral and documentary evidence let in would prove the injuries sustained in the accident and the evidence of the doctor (PW.2) also would prove the treatment which the petitioner had undergone.

7. The Tribunal recorded a finding in favour of the petitioner on issue No.1. On issue No.2 having found one simple injury and another grievous injury, granted Rs.1,000/- and Rs.5,000/- towards pain and suffering and Rs.20,814/- towards medical expenses and Rs.5,000/- towards loss of temporary earnings and, thus, a total sum of Rs.31,814/- was granted as compensation with interest at 7.5% per annum.

8. In fact, as could be seen from the discussion made by the Tribunal under issue No.1, the learned standing counsel for the insurer before the Tribunal even advanced the contention that there was contributory negligence with which the Tribunal did not agree. Therefore, the very ground, on which the insurance company has preferred the present appeal has no legs to stand.

9. Even viewed from the circumstance that the appellant - insurer has not let in any evidence, either oral or documentary, there is no merit in the present appeal.

10. Therefore, the appeal is dismissed. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.



A. SHANKAR NARAYANA, J

September 21, 2016.
Mgr