

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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M.A.C.M.A.No.3038 of 2005
And
Cross Objections (SR) No.26789 of 2006

Between:

The New India Assurance Co.Ltd.

....Appellant

and

Nutheti Gangaiah and another.

....Respondents

JUDGMENT PRONOUNCED ON : 12.02.2016

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.3038 of 2005
And
Cross Objections (SR) No.26789 of 2006

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COMMON JUDGMENT:

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M.A.C.M.A.No.3038 of 2005

Learned Counsel for the appellant filed a letter in the Registry seeking withdrawal of M.A.C.M.A.No.3038 of 2005 and in view of the same, learned Counsel for the appellant is permitted to withdraw the appeal.

M.A.C.M.A is, accordingly, dismissed as withdrawn.

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Cross Objections (SR) No.26789 of 2006

The claimant, who is the first respondent in the appeal, filed the Cross Objections and in view of the same, it has to be seen whether the amount of Rs.1,45,000/- awarded by the Tribunal needs any enhancement.

The claim petition was filed alleging that the claimant was a resident of Angadiveedhi, C.K.Dinne Mandal in Cuddapah, and on 13.06.2002 he boarded an auto bearing No.AP 04 U 2771 to go to Kadapa. When the said auto reached near Madena Engineering College on Cuddapah – Yerraguntla main road, the driver of the auto drove the same in a rash and negligent manner and the auto rolled over, as a result of which he received fracture injuries. Immediately he was shifted to Government Hospital, Cuddapah, for treatment initially and later on shifted to private hospital. He was aged about 70 years and was an agriculturist. He claimed an amount of Rs.3,00,000/- for the injuries sustained by him.

The Tribunal framed appropriate issues and held that the accident occurred due to rash and negligent driving of the auto bearing No.AP 04 U 2771 by its driver.

Regarding the compensation, as per Ex.A2 – wound certificate, it was noticed that the claimant had two injuries, one grievous and another simple. The injuries are as follows:

1. An irregular crushed injury over lateral side of middle of left leg measuring 10 X 6 cm exposing inner muscles and broken bone.
2. Abrasion over dorsum of right foot and right knee.

The evidence revealed that the claimant was in Government hospital for one day and thereafter he took treatment under one

Dr.Subramanya Rao, in whose hospital he was inpatient from 14.06.2002 to 19.07.2002. He filed Exs.A1 to A18 in support of his claim. He claimed an amount of Rs.10,000/- for special expenses, Rs.1,50,000/- for medicines, Rs.20,000/- for special diet and Rs.50,000/- for pain and suffering. He also claimed Rs.10,000/- for damage to the clothes and articles, Rs.50,000/- for loss of income and Rs.50,000/- for permanent disability. The Tribunal took into consideration the oral evidence of P.Ws.2 and 3, the Doctors who treated the claimant, and also the documentary evidence, and awarded an amount of Rs.50,000/- towards medicines apart from awarding Rs.30,000/- for the claim of Rs.50,000/- for the pain out of injuries. It separately awarded an amount of Rs.5,000/- towards transportation charges. An amount of Rs.60,000/- towards loss of earnings, attendants and future treatment was also awarded. The Tribunal in all, by its award dated 27.06.2005, awarded an amount of Rs.1,45,000/- along with interest at 9% per annum.

As stated above, the claimant was aged about 70 years and was an agriculturist. He is having two sons to look after agriculture. There is only one irregular crushed injury over lateral side of middle of left leg. Surgery was performed on the said injury and keeping in view his age and the nature of injury, an amount of Rs.1,45,000/- was awarded for the accident that occurred in the year 2002.

This Court carefully perused the evidence on record and the award of the Tribunal and it feels that the award passed by the Tribunal is just and proper in the circumstances of the case and it does not call for any interference warranting enhancement of the awarded amount.

The Cross Objections are also, thus, dismissed.

(A.RAMALINGESWARA RAO, J)

12.02.2016

vs