

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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C.M.A.No.1509 of 2004

JUDGMENT:

This appeal is preferred by the injured, who was the claimant in M.V.O.P.No.14 of 1999 on the file of the Court of I Additional District Judge, Guntur (for short, Tribunal) seeking enhancement of the compensation amount awarded by the Tribunal.

2. The appellant filed the said MVOP claiming a compensation of Rs.1,00,000/- for the injuries sustained by him in an accident that occurred on 19.12.1998. It was stated in the said MVOP that on 19.12.1998 at about 11.30 pm., while the claimant was traveling in a jeep bearing No.AP7U 4972 along with some others proceeding towards Guntur, and when the jeep reached near a canal at Nallapadu on Guntur-Perecherla State Highway, one lorry bearing No.AP7T 2318 came in opposite direction with high speed in a rash and negligent manner and dashed a Luna at the first instance and later dashed the jeep. In the said accident, he suffered fracture injuries to his right hand and right leg hip. The other passengers in the lorry also received injuries. He was earning Rs.6,000/- per month as RMP doctor at the time of accident, and due to the accident, he was permanently disabled. The owner of the offending vehicle remained *ex parte*. The insurance company filed a counter and contested the matter.

3. On the basis of the pleadings, the Tribunal framed the following issues:

“1. Whether the accident took place due to the rash and negligent driving of the driver of the lorry AP7T 2318?

2. Whether the petitioner is entitled to the compensation, if so, what amount?

3. To what relief?”

4. The claimant was examined as P.W.1 and examined P.W.2 doctor

and marked Exs.A.1 to A.4 besides marking Ex.X.1. The insurance policy was marked as Ex.B.1 with consent.

5. The Tribunal, on the basis of the oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.AP7T 2318. With regard to compensation, the Tribunal noticed that the claimant sustained the following injuries.

“1. Multiple abrasions present over right forearm and hand dorsal aspect

2. Swelling over the ulnar border of right hand. Tenderness present.”

As per Ex.X.1 issued by Dr.P.Sridhar, who examined the petitioner on 19.12.1998 at 1.15 pm, those injuries were found to be simple in nature. But, the witness who was examined as P.W.2 stated that as per Ex.P.3, there was a fracture of 5th metacarpal right side and X-ray No.3933/98 was mentioned in the said certificate. Since the claimant did not produce the said x-ray, the evidence of P.W.2 was disbelieved. Accordingly, the Tribunal awarded an amount of Rs.2,000/- by its award dated 27.09.2003 for two simple injuries. Seeking enhancement of the said amount, the present appeal is filed.

6. A perusal of the award indicates that as per Ex.X.1, which was issued at earliest point of time, the claimant sustained two simple injuries. But, as per Ex.A.3 wound certificate, it was mentioned that the claimant sustained a fracture to 5th metacarpal right side. In the absence of any corroborative evidence, the Tribunal took into consideration only the injuries mentioned in Ex.X.1 which was issued at earliest point of time.

7. In view of the same, this Court is not inclined to interfere with the award of the Tribunal and hence the appeal is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 08.02.2016

TJMR