

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. Nos.2863 OF 2008 AND 1658 OF 2009

COMMON JUDGMENT:

Both these appeals would arise, though, from distinct orders, but the accident is one and the same, as the claimants in both the cases were rider and pillion rider of a two-wheeler.

2. The New India Assurance Company Limited, represented by its Senior Divisional Manager, Kurnool, who is respondent No.2 in O.P. No.123 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Mahabubnagar (for short, 'the Tribunal'), preferred M.A.C.M.A. No.2863 of 2008 (former appeal) under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') assailing the order dated 22.12.2006, whereby and whereunder, the Tribunal, while fastening liability on it (insurer), awarded Rs.30,000/- as compensation, as against the claim of Rs.50,000/- laid under Section 166 of the Act for the injuries sustained by respondent No.1 herein.

3. Whereas, M.A.C.M.A. No.1658 of 2009 (latter appeal) is preferred by the New India Assurance Company Limited, represented by its Senior Divisional Manager, Kurnool, who is respondent No.2 in O.P. No.44 of 2002 on the file of the very same Tribunal, assailing the order dated 22.12.2006, whereby and whereunder, the Tribunal, while fastening liability on it (insurer), awarded Rs.1,15,000/- as

compensation, as against the claim of Rs.2,50,000/- laid under Section 166 of the Act for the injuries sustained by respondent No.1 herein.

4. The appellants in both the appeals are the petitioners, while respondent Nos.1 and 2 in both the appeals, who are the owner and insurer of the accident vehicle, respectively, are respondent Nos.1 and 2 in both the original petitions before the Tribunal.

5. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

6. In the former appeal, the Tribunal has granted Rs.30,000/- to the petitioner for two simple injuries sustained by him in the accident, as could be seen from paragraph No.8 of its order and as contended by the Insurance Company.

7. In the latter appeal, the compensation of Rs.1,15,000/- was granted by the Tribunal for the fracture of both bones of right leg of the petitioner and he was treated initially in the Government Hospital, Mahabubnagar, and then referred to S.V.S. Hospital, Mahabubnagar, and the referral letter is also filed, where a surgical intervention had taken place and future operation was also required to be performed at the cost of Rs.30,000/-.

8. Heard Sri K.G.Ravi Kanth, learned Standing Counsel for the appellant-insurer in both the appeals. No representation for respondent No.1-claimant in both the appeals. Respondent No.2-

owner was served in the former appeal and, though, not served in the latter appeal, makes no difference.

9. So far as the former appeal is concerned, the amount of Rs.30,000/- granted by the Tribunal is excessive. As could be seen from the wound certificate-Ex.A.2, the petitioner sustained only two simple injuries. Thus, there cannot be any loss of earnings and even pain and suffering instead of granting Rs.5,000/- per injury, keeping in view, the injuries sustained by the petitioner. Thus, the compensation is reduced to Rs.10,000/- from Rs.30,000/- granted by the Tribunal, while maintaining the rate of interest.

10. So far as the amount of Rs.1,15,000/- awarded by the Tribunal as compensation in the latter appeal is concerned, when kept in view, the evidence of P.W.2-medical officer, who spoke about the fracture sustained by the petitioner, which relates to both bones of right leg and the surgical interventions undergone and even the petitioner requires a further operation at the cost of Rs.30,000/-. Therefore, there is no merit in the latter appeal.

11. Accordingly, M.A.C.M.A. No.2863 of 2008 is allowed in part modifying the order passed by the Tribunal, by reducing the compensation, as indicated above, while confirming the same in all other respects; whereas, M.A.C.M.A. No.1658 of 2009 is dismissed confirming the order passed by the Tribunal in all respects. There shall be no order as to costs.

12. As a sequel thereto, miscellaneous petitions, if any pending in both the appeals, stand closed.

A. SHANKAR NARAYANA, J

8th September, 2016

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