

THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.Nos.190 and 191 of 2010

COMMON JUDGMENT :

Both these Civil Miscellaneous Appeals are filed by the respective injured-claimants of M.V.O.P.Nos.426 and 444 of 2006, maintained under Section 166 of the Motor Vehicle Act, 1988 (for brevity "the Act"), seeking compensation of Rs.1,00,000/- and Rs.50,000/-, respectively, for the injuries sustained by them in the accident that occurred on 17.02.2006, while they were travelling in an Auto bearing No.AP 05 TT 1473 of the 1st respondent, insured with the 2nd respondent – The New India Assurance Company Limited, from Kommanapalli towards Pithapuram, at Chithrada Gate, near Uppada Centre, at about 10.00 p.m., due to rash and negligent driving of the Auto while negotiating a curve, lost control and as a result of which, the auto turned turtle and the petitioner and other inmates of the auto sustained injuries and a case in Crime No.46/2006 of Pithapuram Police Station was registered on 01.03.2006 with a delay of 13 days from the date of accident.

2. Heard learned counsel for the appellants – claimants in both the appeals as well as the learned Standing Counsel for the 2nd respondent – The New India Assurance Company Limited and perused the material available on record.

3. Ex.A.2 – Wound Certificate issued by the Civil Assistant Surgeon, Government Hospital, Pithapuram, shows that when the appellants – claimants along with others were travelling in the auto, as it was hit by a pig, the auto turned turtle and they sustained injuries. The claimant in O.P.No.426 of 2006 viz., Kakada Suryudu, shown to have sustained a single injury of fracture of tibia, which is grievous in nature, and he was referred after treatment by P.O.P. band to the General Hospital, Kakinada, on 17.03.2006 for expert management, and the other injured in O.P.No.444 of 2006 viz., Sri Kakada Abbai shown to have sustained five simple injuries. The explanation for the delay in lodging FIR before the Police as to the occurrence of accident is that the auto driver promised to pay money to compensate the injuries sustained by them and they, being coolies and workers, innocently believed the same and as the auto driver failed to pay the amount, they set the law into motion, but the Tribunal disbelieved the said version and dismissed their claim petitions.

4. There is no need to show any false implication of the auto, that the injuries by the claimants not even suggested by any investigating officer of the Insurance Company to have sustained somewhere else and having regard to the above, the dismissal of the claims by the Tribunal is unsustainable.

5. Accordingly, both the Civil Miscellaneous Appeals are allowed in part, awarding a compensation of Rs.30,000/-

(Rupees thirty thousand only) to the appellant-claimant in MACMA.No.190 of 2010 arising out of M.V.O.P.No.426 of 2006, and Rs.14,000/- (Rupees fourteen thousand only) to the appellant-claimant in MACMA.No.191 of 2010 arising out of M.V.O.P.No.444 of 2006, however, with interest @ 4% per annum from the date of petition till the date of realization. No order as to costs.

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

18.11.2016.
Msr

Dr. JUSTICE B. SIVA SANKARA RAO



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18.11.2016
(Msr)