

THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

M.A.C.M.A.No.468 of 2009

JUDGMENT:

Aggrieved by the Award dated 03.06.2002 in O.P.No.846 of 1998 passed by the Chairman, M.A.C.T.-cum-Principal District Judge, Ranga Reddy at L.B.Nagar, Hyderabad (for short “the Tribunal”), the claimant preferred the instant appeal.

2) The factual matrix of the case is thus:

a) The case of the claimant is that on 27.09.1996, when he along with others were proceeding in a lorry bearing No.MTO 5181 from Zaheerabad to Hyderabad and when it reached near Kottur National High Way No.9, the driver of the lorry drove the same at high speed in a rash and negligent manner due to which the lorry turned turtle. In the resultant accident, the claimant sustained injuries. Immediately he was admitted in Gandhi Hospital, Secunderabad. It is averred that the accident was occurred due to the fault of lorry driver. On these pleas, the claimant filed O.P.No.846 of 1998 under Section 166 of Motor Vehicles Act (for short “MV Act”) and claimed Rs.80,000/- as compensation against respondents 1 and 2 who are owner and insurer of the offending lorry.

b) R1 remained ex-parte.

c) R2—Insurance Company filed counter and opposed the claim denying all the material averments made in the petition and urged to put the claimant in strict proof. R2 disowned its liability on the ground that claimant travelled in the crime lorry as unauthorised passenger. Thus R2 prayed to dismiss the O.P.

d) During trial, PW1 was examined and Exs.A1 to A6 were marked on behalf of claimant. DW1 was examined on behalf of respondents.

e) The Tribunal after considering the evidence on record held that the driver of the lorry was responsible for the accident and awarded compensation of Rs.40,000/- with proportionate costs and interest @ 9% p.a. against respondents 1 and 2.

Hence, the appeal by claimant.

3) The parties in this appeal are referred as they stood before the Tribunal.

4) Appeal against R1/owner was dismissed for default. However, he remained *ex-parte* before the lower Tribunal and hence, the aforesaid dismissal is of no consequence. Notice to R2 served but no representation. Hence, heard arguments of learned counsel for appellant.

5) The main submission of learned counsel for appellant is that as against the claim of Rs.80,000/- the Tribunal has awarded only Rs.40,000/-. He submitted that though the claimant suffered fracture of both rami of right pubic bone and hospitalized for a considerable period and suffered loss of earnings, the Tribunal granted only a paltry amount of Rs.40,000/- without granting any compensation for loss of earnings independently. Therefore, he prayed to allow the appeal and enhance the compensation suitably.

6) The point for determination is:

“Whether the compensation awarded by the Tribunal is just and reasonable or needs interference?”

7) **POINT:** It is seen that Tribunal basing on Exs.A3 and A4 has noted that claimant suffered fracture of both rami of right pubic bone and considering the same awarded lumpsum amount of Rs.40,000/- as against the claim for Rs.80,000/-. It is true that the Tribunal has not demarcated the amount awarded by it under differed heads but instead, awarded a lumpsum amount of Rs.40,000/-. In spite of the said

mistake having regard to the totality of facts and circumstances, the amount of Rs.40,000/- awarded by the Tribunal, in my view will cover all the claims under different heads. For instance, for fracture injury an amount of Rs.20,000/- can be awarded. Similarly, for hospitalization, attendant expenditure and extra-nourishment charges altogether a sum of Rs.10,000/- can be awarded and the remaining amount of Rs.10,000/- can be awarded for loss of earnings for the period of hospitalization. The claimant has not produced any medical bills and therefore the medical expenditure cannot be considered. In that view of the matter, total compensation of Rs.40,000/- awarded by the Tribunal can be said to be just and reasonable. Therefore, I find no merits in the appeal.

8) Accordingly, this appeal is dismissed by confirming the Award passed by the Tribunal. No costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 11.07.2016

Murthy