

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.1342 of 2009

JUDGMENT:

The National Insurance Company Limited – sole respondent in M.V.O.P.No.12 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Ongole (for short 'the Tribunal'), preferred the present appeal questioning the award and decree, dated 04.04.2008, passed in the said O.P., on the main ground that the Tribunal was not right in granting an amount of Rs.75,000/- as compensation to the petitioner, who is no other than the rider-cum-owner of the motorcycle bearing registration No. AP 27 E 1179 insured with the respondent, as he did not sustain any permanent disability at all, and, therefore, sought to set aside the award and decree.

2. The fact situation is not in dispute. The accident did occur when the petitioner was proceeding on his motorcycle and reached near milk centre at Muppavaram, where it dashed a lorry, which was stationed on the road without signals switched on, due to which, he sustained injuries. He laid a claim for Rs.4,00,000/- under Section 163 (A) of the Motor Vehicles Act, 1988.

3. Heard Sri R.Venkat Rao, learned counsel for the appellant, and Smt. Vanga Anitha, learned counsel for the sole respondent, petitioner in the O.P.

4. The Tribunal, having framed relevant issues, examined relevant witnesses and also marked documents, and ultimately, by observing that Ex.A6-medical certificate shows that the petitioner spent Rs.46,385.50 ps and basing on the nature of the injuries proved through the evidence of P.Ws.2 and 3, opined that the petitioner sustained partial permanent disability and, accordingly, granted a lumpsum amount of Rs.75,000/- as compensation.

5. The aforesaid award is questioned in the instant appeal on the main ground that the petitioner did not sustain partial permanent disability and no certificate was issued by the concerned Medical Board and, therefore, sought to set aside the award and decree.

6. Perused the order and the material on record.

7. Based on fact situation and the evidence of P.Ws.2 and 3, the Tribunal recorded a finding that the petitioner sustained partial permanent disability and, in such an event, the said finding tendered by the Tribunal does not warrant interference as it is well reasoned and based on appreciation of evidence on record. Merely on the ground that no disability certificate was issued, the decree passed and the amount awarded by the Tribunal cannot be upset. A perusal of the policy would show that a sum of Rs.50/- was paid covering the risk of the owner-cum-driver upto the limit of Rs.1,00,000/-. The amount awarded in the instant O.P is Rs.75,000/-. Therefore, there is no merit in the present appeal.

8. Accordingly, the appeal is dismissed, confirming the order and decree passed by the Tribunal in all respects.

9. Miscellaneous applications, if any pending in the instant appeal, shall stand closed. No order as to costs.

JUSTICE A.SHANKAR NARAYANA

23.08.2016

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