

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A. No 1409 of 2005

DATED 20TH JANUARY, 2016

BETWEEN

Datla Laxmi Devi @ Laxmi Devamma

...Appellant

And

A.Pakkir Saheb and anr

...Respondents

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.No. 1409 of 2005

JUDGMENT:

-

The petitioner in MVOP.No.212 of 2003 on the file of the learned Chairman, Motor Accident Claims Tribunal-cum-III Additional District Judge, Kurnool at Nandyal, is the appellant herein. She filed the aforesaid claim petition claiming compensation of Rs.4,00,000/- on account of the injuries sustained by her in a motor vehicle accident that occurred on 21.12.1998 at 8.30 PM near Junior Civil Judge's Court, Koilkunta while she was travelling along with others in a lorry bearing No. AP 21 U 3940 as owner of the goods namely paddy bags.

The first respondent, owner of the lorry remained *ex parte* before the Tribunal, The second respondent, Insurance Company contested the claim petition stating that travelling of

the petitioner in the lorry is contrary to the terms and conditions of the policy.

Based on the above pleadings, the Tribunal framed the following issues for settlement.

1. Whether the accident occurred due to rash or negligent driving of lorry bearing No. AP 21 U 3940 resulting in injuries to petitioner ?
2. Whether the petitioner is entitled for compensation and if so, to what amount and from which of the respondents ?
3. To what Relief.

In order to prove the claim, the petitioner was examined as P.W.1 and Exs.A.1 to A.3 were got marked on her behalf. On behalf of the Insurance company, RW.1 was examined and Ex.B.1 was got marked.

The Tribunal on a thorough examination of the oral and documentary evidence found that the accident occurred due to the rash and negligent driving of the lorry bearing No. AP 21 U 3940 by its driver.

The documentary evidence filed before the Tribunal is, FIR (Ex.A.1), Wound Certificate (Ex.A.2) and Medical Certificate issued by the Chairman, Regional Medical Board, Government General Hospital, Kurnool (Ex.A.3). As per Ex.A.2, Wound Certificate, the petitioner sustained following injuries in the accident in question.

“1.Lacerated injury of right side skull. Temporal area of skull. Fracture of the lacerated bones. Bleeding

from 20 stills present. Bleeding from the injury present.

2. Swelling of the right eye lid.

3. Swelling of right cheek .”

Having regard to the nature of the aforesaid injuries, they were treated as simple injuries and accordingly the Tribunal awarded an amount of Rs.3,000/- towards pain and suffering. The petitioner took treatment for a period of one month and therefore the Tribunal awarded Rs.1500/- towards loss of income on the ground that she is only a unskilled labourer. In the absence of any evidence showing medical expenses, the Tribunal awarded an amount of Rs.1500/- towards medical expenses. Thus, in all the Tribunal awarded a sum of Rs.6,000/- . Dissatisfied with the said Award, the petitioner preferred the present appeal seeking enhancement of the compensation.

The learned Counsel for the appellant submits that the petitioner became mentally retarded due to the injuries sustained by her in the motor vehicle accident. Ex.A.3 medical Certificate issued by the Chairman, Regional Medical Board, Government General Hospital, Kurnool shows that the petitioner became mentally retarded after the accident in the year 1998. Since the said certificate does not contain any reason, the said certificate was not taken into consideration. The evidence on record does not show that the petitioner is not mentally retarded prior to the accident. If the petitioner is mentally retarded due to the injuries sustained by her in the accident, normally the petitioner should have examined the doctor connected to Ex.A.3. In the absence of such evidence, Ex.A.3

cannot be taken into consideration and compensation cannot be assessed and awarded based on Ex.A.3. More so, the injuries sustained by the petitioner in the accident in question are simple in nature. In the circumstances, I do not see any valid and substantial ground warranting interference with the Award of the Tribunal.

The MACMA is accordingly dismissed. Miscellaneous petitions pending consideration if any in the appeal shall stand closed in consequence. No order as to costs.

JUSTICE A.RAMALINGESWARA RAO

DATED 20TH JANUARY, 2016.

Msnr_x