

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.425 OF 2010

JUDGMENT:

The injured claimant, who maintained O.P. No.1805 of 2004 on the file of Motor Accidents Claims Tribunal-cum-X Additional Chief Judge (FTC), City Civil Court, Hyderabad (for short 'the Tribunal') against owner and insurer of tractor bearing No.AP 24 U 9714 under Section 166 of Motor Vehicles Act, 1988 (for short 'M.V.Act') for the injuries sustained in the motor accident dated 07.05.2003, with averments that while he along with his friend proceeding on scooter bearing No.AP 24 C 3318 from Hyderabad to Shivareddygudem to attend the function, when he reached near old panchayath office board, one tractor bearing No.AP 24 U 9714 came in opposite direction, which was driven by its driver in rash and negligent manner, dashed the scooter, as a result, he sustained injuries. From the contest of 2nd respondent as 1st respondent—owner remained *ex parte*, from the evidence of PWs.1 and 2 and Exs.A1—FIR, A2—charge sheet and A4—Scene of Offence Panchanama, the Tribunal found that the accident was occurred due to rash and negligent driving of the driver of 1st respondent and awarded Rs.35,500/- towards compensation with interest at 7.5% per annum. Impugning the quantum of compensation as utterly low, the injured claimant maintained the appeal.

2) Heard learned counsel for appellant—claimant and learned standing counsel for insurer. Perused the material on record.

3) From the evidence of PWs.1 and 2, petitioner sustained grade – II compound comminuted fracture both bones of left leg, leg middle 3rd severe bleeding and other injuries and admitted in Sai Sanjeevini Hospital on 07.05.2003 and discharged on 16.05.2003 and Exs.A6 to A9 viz., medical bills, ECG report, X-ray film respectively

show PW.1 incurred an amount of Rs.46,462/- but the Tribunal awarded Rs.15,000/- for the fracture injury including pain and sufferance and Rs.16,000/- towards medical expenses, which require enhancement and thereby, an amount of R.25,000/- for the fracture injury, Rs.46,500/- towards medical expenses supported by bills, an amount of Rs.8,500/- towards loss of earnings, extra nourishment, transport and attendant charges, in all it comes to Rs.80,000/- for which the claimant is entitled to.

4) Now coming to the liability of the insurer, the evidence of RW.1 and Exs.B1 to B5, which include the endorsement of the additional licensing authority of the driving licence of the driver of the vehicle of 1st respondent, shows the licence was expired long back, thereby as on the date of accident, there is no licence at all. Thus, the Tribunal gravely erred in considering the fake licence or totally no licence but for no renewal after expiry for continuous driving, thereafter even.

5) Accordingly and in the result, the appeal is partly allowed while enhancing the compensation from Rs.35,500/- (Rupees thirty five thousand five hundred only) to Rs.80,000/- (Rupees eighty thousand only) with interest at 7.5% per annum. No order as to costs.

6) Consequently, Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.24.11.2016
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