

THE HON'BLE MS. JUSTICE J. UMA DEVI

MACMA NO. 2444 OF 2005

JUDGMENT:

The appellant herein filed a claim petition in OP No. 236 of 2001 before the Motor Accident Claims Tribunal-cum-IX-Addl. Chief Judge, City Civil Court, (Fast Track Court) at Hyderabad, claiming a compensation of Rs.1,00,000/- for the injuries sustained by him in a motor vehicle accident against the respondents 1 and 2 who were owner and insurer of the offending Maruti Van bearing No. AP 28 F 9729.

It is the case of the appellant that on 6.1.2001 at about 11.15 A.M. while he was proceeding along with his wife on kinetic Honda to their respective offices, when they reached near HUDA Truck park, Kukatpally, they were hit by a Maruti Van bearing No. AP 28 F 9729 which came from their behind in a rash and negligent manner, as a result of which, both of them sustained injuries and were shifted to Gandhi Hospital, Secunderabad for treatment soon after the accident. A case in Cr.No. 17 of 2001 was registered under Section 338 IPC in Kukatpally police station against the driver of Maruti Van.

Heard arguments on both sides.

Learned counsel for the appellant contended that the Tribunal discarding the medical evidence and other material documents produced in support of the appellant's contention that he obtained treatment in Gandhi Hospital, Secunderabad for 'four days' for the injuries he sustained in the accident, dismissed the claim petition filed by him as against the respondents 1 and 2. He contended that the Tribunal has not

properly appreciated the oral and documentary evidence produced in support of his contention that he is entitled to get reasonable compensation from the respondents 1 and 2 who are the owner and insurer of the offending vehicle. He seeks to set aside the award passed by the Tribunal and award reasonable compensation as prayed for.

The point that arises for consideration is,

“Whether the Tribunal is correct in disallowing the claim for compensation made by the appellant as against the respondents 1 and 2?

POINT:-

The appellant seems to have not adduced any other oral evidence except examining himself as P.W.1. The appellant in his evidence stated that he sustained fracture to his left leg and crush injury to his foot and other injuries all over his body, and took treatment in Gandhi Hospital for a period of four days for treatment. The appellant has not examined the medical officer to establish that he is suffering from disability on account of receiving of injuries in the accident. He produced Ex.A2, a bunch of 10 medical bills, dated 8.1.2001 in support of his contention that he spent Rs.20,000/- towards medical expenditure. He also produced Ex.A3-medical leave application and earned leave proceedings.

I have perused Ex.A5-out patient chit issued by Gandhi Hospital which clearly establishes that the appellant sustained an abrasion on right upper limb, and two more injuries. The Tribunal ought to have awarded a reasonable compensation, instead of rejecting his claim petition. Upon consideration of the fact that the appellant had taken treatment for a

period of four days in Gandhi Hospital for the injuries he received in the accident which occurred on 6.1.2001, this Court is of the view that awarding compensation of Rs.4,000/- towards pain and suffering and Rs.1,000/- towards transport to hospital etc and another sum of Rs.5,000/- towards medical expenditure, extra nourishment, will meet the ends of justice. In all, the appellant is entitled to Rs.10,000/- towards compensation.

In the result, the impugned award passed by the Tribunal is set aside and OP No. 236 of 2001 is allowed awarding compensation of Rs.10,000/- (Rupees Ten Thousands only) with proportionate costs and interest @ 7.5 per annum from the date of claim petition till the date of realization, payable by the respondents 1 and 2 jointly and severally. On deposit of the compensation amount, the appellant is entitled to withdraw the same at once.

The appeal is accordingly allowed. Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

JUSTICE J. UMA DEVI

Dt.9.3.2017
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