

HON'BLE SRI JUSTICE N. BALAYOGI

M.A.C.M.A NO.1442 OF 2010

JUDGMENT:

1. The appellant aggrieved by the award dated 13.8.2002 in O.P.No.20 of 1999 on the file of the Motor Accidents Claims Tribunal (District Judge), East Godavari, Rajahmundry, in respect of non-granting of interest on the compensation amount from the date of the claim petition, preferred this appeal.

2. The appellant contended that non-granting of interest on the compensation amount from the date of filing of the claim petition without there being any reasons, is contrary to law.

3. On the other hand, the learned Counsel for the 3rd respondent contended that in view of granting of loss of earnings and consideration of disability at 100%, interest was not granted by the Tribunal.

4. The claim of the appellant is as follows:

On 11.1.1998 at about 9 p.m., while the claimant and another person-Venkata Satya Prasad were returning from Kathipudi and proceeding towards Annavaram and when they reached Seethayampeta on their scooter, a lorry bearing No.AIL 5599 coming in opposite direction from Annavaram and towards Kathipudi without giving signals, dashed the scooter. Consequently, the said Venkata Satya Prasad, who followed the claimant succumbed to injuries. The claimant sustained grievous injuries.

5. Having considered the pleadings, the Tribunal settled the following issues for trial:

(i) Whether the claimant sustained injuries as a result of rash and negligent driving of the accident vehicle driven by the 1st respondent?

(2) Whether the claimant is entitled for any compensation, if so, to what amount and from whom?

(3) To what relief?

6. In support of the claim of the claimant, P.Ws.1 to 3 were examined and Exs.A1 to A29 were marked. No oral evidence was adduced on behalf of the respondents and Ex.B1 was marked on their behalf.

7. Since, the appellant is not disputing the findings of the Tribunal in respect of rash and negligent driving, the amounts awarded under different heads and the granting of interest, no need to deal with the said aspects.

8. The Tribunal having considered the oral and documentary evidence produced by the claimant and the proposition of law, allowed the claim in part with proportionate costs awarding pecuniary damages at Rs.3,60,000/- and non-pecuniary damages at Rs.1,15,784/- in total Rs.4,75,784/- with interest at the rate of 9% p.a., from the date of award till the date of payment. The appellant is disputing the non-granting of interest from the date of the claim petition.

9. From the reading of the entire judgment, it is clear that there is no discussion or it is not the contention of the 3rd respondent-Insurance Company that the claimant is not entitled to any interest from the date of the claim petition. The Tribunal relied upon the judgment cited in (2002) ACC 108 (DB), wherein the Tribunal awarded Rs.8,55,000/- as compensation with 6% p.a., and the High Court modified the award and granted Rs.6,00,000/- as against Rs.8,55,000/- and enhanced the interest from 6% to 9%, while dealing with Sections 166 and 173(1) of the Motor Vehicles Act, 1988. Relying on the said judgment, the Tribunal awarded interest at the rate of 9% p.a. Therefore, the rate of interest awarded by the Tribunal does not warrant any interference.

10. Perusal of the available material on record goes to show that the appellant herein filed claim petition in OP No.20 of 1999, in which the Tribunal awarded compensation from the date of the award. The Tribunal has not stated the reasons for denying the interest from the date of the claim petition. In the absence of any rebuttal evidence produced by the 3rd respondent, I find that the appellant is entitled to interest from the date of the claim petition. Accordingly, non-granting of interest from the date of claim petition by the Tribunal is perverse and it suffers from legal infirmity warranting interference.

11. In the above circumstances, the award passed by the Tribunal dated 13.8.2002 in O.P.No.20 of 1999 is modified only in respect of granting of interest from date of filing the claim petition viz., 31.12.1998 till date of payment/deposit at the same rate i.e., 9% p.a.

12. Accordingly, the appeal is partly allowed. Respondents Nos.1 to 3 are directed to deposit compensation amount of Rs.4,75,784/-, with interest at the rate of 9% p.a., from the date of the claim petition i.e., 31.12.1998 till the date of payment, within a month from the date of receipt of a copy of this judgment, after adjusting the amount, if any already deposited/paid. On such deposit/payment, the appellant is permitted to withdraw the same.

13. Advocate's Fee is fixed at Rs.2,000/-.

14. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE N. BALAYOGI

Dated: 30.10.2017
Nn.

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