

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.238 of 2014

JUDGMENT :

This Civil Miscellaneous Appeal is arising out of the judgment and decree dated 17.11.2008 in O.P.No.589 of 2006 passed by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Adilabad (for brevity "the Tribunal"), granting compensation of Rs.10,000/- as against the claim of Rs.1,20,000/- towards the injuries sustained by the appellant in a Motor Accident Claim Petition filed under Sections 166 and 163-A of the Motor Vehicles Act, 1988 (for brevity "the Act"). According to the appellant, this is a case of injuries suffered by him in a Motor Vehicle accident occurred on 03.10.2006, while he was proceeding in an Auto bearing No.AP1V-1136 from Nirmal towards Narsapur village and when the auto reached near Talveda cross-road on BT Road, an Eicher Van bearing No.AP1T-4499 driven by its driver in a rash and negligent manner, dashed the said auto. On consideration of the evidence and material on record, the Tribunal held that the driver of the van had driven it in a rash and negligent manner and accordingly awarded compensation of Rs.10,000/- with interest @ 7.5% per annum to the appellant and against respondent No.1 - owner of Eicher Van; and respondent No.2 – Oriental Insurance Company Limited. Having dissatisfied with the said award of compensation passed by the Tribunal, the appellant has preferred this

appeal seeking enhancement of compensation. Heard the arguments of Sri S. Surender Reddy, learned counsel for the appellant/petitioner and Sri N. Mohan Krishna, learned Standing Counsel for respondent No.2 – insurer. On consideration of the arguments of the learned counsel for appellant and the learned Standing Counsel for respondent No.2, it is obvious that the appellant had received an injury on his right knee joint. He was aged 20 years old by the date of accident and he was a Mason by profession. The observations of the Tribunal in para-16 of its judgment are that the injury suffered by the appellant to his knee was not a grievous injury and it was only a simple injury. On that premise, the Tribunal awarded Rs.5,000/- towards pain and suffering, extra-nourishment, loss of wages and other incidental charges. The Tribunal also granted Rs.5,000/- towards medical expenses, though the claim of the appellant was Rs.7,000/-. The compensation awarded by the Tribunal does not appear to be on reasonable assessment for the injuries suffered by the appellant. The case of the appellant is that he suffered a fracture to his knee and he was a Mason by profession. Though the appellant claimed that he suffered disability, he could not establish the same. No doubt, the appellant did not examine the Medical Officer, who treated him; however, he filed the documents, viz., Exs.A.4 – Medical Bills (3 in number); A.5 – Prescriptions; and A.6 – X-ray films (3 in number). But, Ex.A.2 – Attested copy of Injury

Certificate reveals that P.W.1 – appellant herein has suffered a grievous injury and POP was applied by the Government Medical Officer at Nirmal and the treatment in Government Hospital was free of cost. The Tribunal, having observed that P.W.1 has obtained grievous injury and POP was applied by the Government Medical Officer at Nirmal, has awarded inadequate compensation in this matter. However, on consideration of the material on record, the ends of justice would be met if a compensation of Rs.30,000/- is awarded in this case on all counts.

2. In the result, the Civil Miscellaneous Appeal is allowed in part, enhancing the compensation awarded by the Tribunal from Rs.10,000/- to Rs.30,000/- (Rupees thirty thousand only) with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of realization against respondent Nos.1 and 2 jointly and severally. The respondents are directed to deposit the compensation amount within one month from the date of receipt of a copy of this judgment. On such deposit, the appellant/petitioner is permitted to withdraw the entire amount of compensation. No order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

GUDISEVA SHYAM PRASAD, J

30.10.2017.
Msr

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