

THE HON'BLE MS. JUSTICE J. UMA DEVI

MACMA NO. 567 OF 2007

JUDGMENT:

Having been aggrieved by the order dated 22.11.2006 passed in MVOP No. 1027 of 2004 on the file of the Motor Vehicle Accidents Claims Tribunal-cum-IX-Addl. District Judge, Guntur, the present appeal is filed by the National Insurance Company, against whom the claim was raised for compensation by the injured-claimant for a sum of Rs.70,000/- for receiving of injuries in the accident dated 12.2.2004 which occurred at 7.30 P.M. near Aminabad cross roads, at Vemulurupadu village on Guntur – Narasaraopet State High Way.

The facts of the case are briefly stated as follows,

The first respondent herein Shaik Abdul Vadood is the claimant in MVOP No. 1027 of 2004. As per his contention, on 12.6.2004 at about 7.30 P.M. while he was proceeding on left side of National High Way leading to Narasaraopet from Guntur at Vemulurupadu village, one jeep bearing No. AP 7 U 7109 belonging to first respondent in OP dashed against him due to the negligent driving of it by its driver who failed to take proper care and caution while taking it towards Guntur side. In the aforementioned accident, the petitioner sustained injuries to his left ribs and left clavicle, for which he took treatment as inpatient in Government General Hospital, Guntur. His further contention was that the movement of his left shoulder joints was restricted and that it became defunct. After his discharge from the Government General Hospital, Guntur, he took treatment in Kamala Poly Clinic Nursing Home at Perecherla. The

claimant was aged about 30 years by the date of the accident. He was getting income of Rs.80/- to 90/- per day by doing cooli work. Because of the injury he sustained to his left clavicle, he is not in a position to attend to any other work. Hence he laid the claim for Rs.70,000/- as against the owner and insurer of the offending jeep.

The Tribunal, on appreciation of the oral and documentary evidence available in the case record, awarded compensation of Rs.62,600/-. The National Insurance Company with which the offending jeep was insured by the first respondent in the OP had come up with the present appeal raising a primary contention that though the X-ray reports were not produced by the petitioner to establish that there was fracture to left clavicle and fracture to the ribs etc., the Tribunal awarded compensation of Rs.62,600/- and thus the award passed by the Tribunal granting compensation of Rs.62,600/- to the claimant for the injuries he sustained in the accident dated 12.6.2004 suffers from serious infirmity.

Heard the submissions of the learned Standing Counsel appearing for the appellant-Insurance Company. Perused the order impugned in this appeal and also the oral and documentary evidence available in the case record.

On perusal of the grounds urged by the appellant in the appeal grounds, it was noticed that the appellant-insurance company had come up with the main contention that though no X-ray reports were produced by the claimant, the Court below had awarded compensation of Rs.62,600/- and that the compensation so awarded is, not only excessive, but also exorbitant.

The claimant, apart from examining himself as P.W.1 to prove that he received injuries in the road accident dated 12.6.2004, produced the certified copy of wound certificate Ex.A3 and also examined Dr. V.N, Krishna Prasad as P.W.3. The evidence of P.W.3 clinchingly establishes the fact that the claimant sustained fractures to 3 to 5 ribs on left side, and also fracture to left clavicle. The Tribunal, by assessing the income of the claimant notionally at Rs.100/- per day, awarded a sum of Rs.30,600/- under the head of loss of income. The Tribunal, on appreciation of evidence given by P.W.2 Dr. K.V.Koteswara Rao, the consultant in Kamala Poly Clinic and Nursing Home, Perecherla, made an observation that the petitioner sustained four fracture injuries and there was restriction in the movement of left shoulder. The Tribunal, on appreciation of the evidence available in the case record, had awarded compensation of Rs.62,600/- to the claimant and that the compensation so awarded, in my considered view, is just and reasonable. I have not noticed any patent irregularity in the award passed by the Tribunal. Therefore, I am not inclined to interfere with the award passed by the Tribunal.

In the result, the appeal is dismissed confirming the award dated 22.11.2006 passed by the Tribunal in MVOP No. 1027 of 2004. Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

JUSTICE J. UMA DEVI

Dt.1.9.2017
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