

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

M.A.C.M.A.No.2612 OF 2005

JUDGMENT:

Heard learned counsel for the appellant, Sri N.S.Bhaskar Rao, learned Standing Counsel appearing for respondent No.2/insurance company, and perused the material available before the Court.

2. The claimant in O.P.No.872 of 2000 on the file of the Motor Accidents Claims Tribunal (District Judge), Nizamabad is the appellant in the present appeal filed under Section 173 of the Motor Vehicles Act, 1988.

3. According to the appellant, on 07.06.2000, when he was driving his scooter bearing No.AP-25/4767 from Sirkonda towards Gadkol Village side, on the side of the road very slowly and cautiously, and when he reached Sirkonda Village shivar on Sirkonda to Gadkol road at about 8 A.M., a tractor bearing No.AP-25/E-226 driven by its driver at high speed and in a rash and negligent manner, came from behind without blowing the horn and dashed the scooter of the appellant herein with front portion of the tractor due to which he fell down and front wheel of the tractor ran over the appellant due to which he received fracture injuries to his right hand, right leg, left side ribs, back bone, chest bone and injuries to left leg and other parts of the body. It is the further case of the claimant that he was admitted at Sri Tirumala Orthopaedic Nursing Home, Nizamabad and was treated by Dr.R.Bhupathi Reddy, Orthopaedic Surgeon. Alleging that the accident took place due to the rash and negligent driving of the

driver of the tractor bearing No.AP-25/E-226, appellant herein filed O.P.No.872 of 2000 on the file of the Motor Accidents Claims Tribunal – cum – District Judge, Nizamabad.

4. On the basis of the pleadings available on record, the learned District Judge framed the following points for consideration:

“i. Whether the petitioner is entitled to compensation sought for?

ii. To what relief the petitioner is entitled to?”

5. During the course of trial, apart from examining himself as P.W.1, the appellant herein examined Dr.T.Narsing Rao as P.W.2 and marked Exs.A-1 to A-8 and C-1 and C-2.

6. No oral or documentary evidence was adduced on behalf of the respondents.

7. In order to prove his case, claimant/appellant herein filed Ex.A-3 – wound certificate issued by Dr.R.Bhupathi Reddy. Apart from his personal testimony, claimant also examined Sri Dr.T.Narsing Rao as P.W.2. Admittedly, Ex.A-3 – wound certificate was issued by Dr.Bhupathi Reddy, but the claimant herein did not examine the said person on his behalf, but examined Dr.T.Narsing Rao as P.W.2, who never treated him. The Tribunal took note of the said failure on the part of the claimant in examining Dr.Bhupathi Reddy, who issued Ex.A-3 – wound certificate and who treated the appellant herein, and refused to consider the evidence of P.W.2 and Ex.C-1 – disability certificate. The Tribunal, after taking into consideration the material available on record, awarded compensation of Rs.35,000/- towards

disability, Rs.5,000/- towards pain and suffering and Rs.6,865/- towards medical expenses covered by Ex.A-6 - medical bills. In addition to the above amounts, the Tribunal also granted Rs.9,000/- towards loss of earnings for three months. A perusal of the award passed by the Tribunal reveals in a clear and vivid terms that only after meticulously and elaborately considering the entire material on record, the Tribunal granted just and reasonable compensation. In the considered opinion of this Court, the award passed by the Tribunal does not require any interference of this Court under Section 173 of the Motor Vehicles Act, 1988.

8. Accordingly, the M.A.C.M.A. is dismissed. There shall be no order as to costs.

9. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

Date : 20.11.2017
AMD

JUSTICE A.V.SESHA SAI



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