

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.417 OF 2014

JUDGMENT:

The present Motor Accidents Civil Miscellaneous Appeal is preferred by respondent No.2 in M.V.O.P. No.475 of 2008 being the Insurer, aggrieved over the order and decree, dated 09.05.2011, passed by the Chairman, Motor Accidents Claims Tribunal - cum - Principal District Judge, Kadapa (for short 'Tribunal'), whereby and whereunder, a compensation of Rs.3,44,100/- was awarded with interest at the rate of 6% per annum therein for the injuries sustained by the petitioner, a minor on the date of accident, aged 17 years, student prosecuting studies, as against the claim of Rs.6,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'Act').

2. Respondent No.1 herein is the petitioner in the aforesaid M.V.O.P., while Respondent No.2 and the appellant herein, who are owner and insurer of goods vehicle bearing registration No.AP 16TX 1451, respectively, are respondent Nos.1 and 2.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed in the aforesaid MVOP.

4. Heard Sri A. Ramakrishna Reddy, learned counsel for the appellant - Insurer, and Sri D. Kodanda Rami Reddy, learned counsel for respondent No.1 - petitioner. Though, respondent No.1 herein,

owner of the vehicle, served with notice, none appears for it. In fact, it remained *ex parte* before the Tribunal and suffered decree.

5. So far as the fact-situation is concerned, the petitioner while driving the motorcycle on the way Vempalli - Kadapa road having found his friend - Prasad Reddy, he stopped the motorcycle by the left side of the road, and while conversing with his friend, at about 8.00 a.m., since the driver of the lorry bearing registration No.AP 16TX 1451 belonging to respondent No.1 - M/s. Navatha Road Transport drove it in a rash and negligent manner, hit the motorcycle from behind, on account of which, the petitioner sustained multiple grievous injuries, surgical intervention was done and he was even treated at CMC Hospital, Vellore, besides being treated in RIMS Hospital, Kadapa. He sustained fractures to his mandible and right femur. He filed a claim petition through his father as next friend.

6. Respondent No.1, owner of the vehicle, remained *ex parte*. Respondent No.2 - Insurer resisted the claim. Relevant issues were framed by the Tribunal. Before the Tribunal, on behalf of the petitioner, PWs.1 to 4 were examined, amongst whom, PWs.2 and 4 were the doctors, besides marking Exs.A-1 to A-9. On behalf of respondent No.2, Administrative Officer was examined, besides marking Exs.B-1 and B-2.

7. The main submission of the learned standing counsel for the appellant is that the petitioner being a minor, he was not supposed to drive the vehicle and no driving license would be issued to a minor and, therefore, that amounts to violation of conditions of the policy and, as such, no amount ought to have been granted by the Tribunal.

8. One-thing is certain that the petitioner was, in fact, not driving the vehicle at the relevant time. He stopped the vehicle and he was conversing with his friend at the relevant time by the side of the road, but the lorry came from behind and hit him, due to which, he sustained injuries. Therefore, that argument does not merit acceptance.

9. Now, turning to the amounts granted by the Tribunal, the Tribunal has gone through the medical bills, as could be seen from the discussion made in paragraph Nos.17 to 19 and, in fact, when the petitioner himself was treated in RIMS Hospital, Kadapa and CMC Hospital, Vellore, huge amount must have been spent, and that was the reason and basing on the medical bills only, the Tribunal awarded Rs.1,00,000/- towards medical expenses though, the claim was for Rs.2,00,000/-. Towards transport charges, a sum of Rs.3,700/- was granted though the claim was for Rs.10,000/-. Towards disability, the Tribunal awarded Rs.2,30,400/- taking the income at Rs.3,000/- and the multiplier factor '16' and 40% disability based on the schedule to

Section 163-A of the Act. Tribunal also awarded a sum of Rs.10,000/- towards pain and suffering, though, the claim was for Rs.50,000/-.

10. Thus, viewed from any angle, the amounts granted by the Tribunal when kept in view, the pain and suffering undergone by the petitioner and even dislocation of studies on account of three months treatment he had undergone and multiple injuries he sustained with 40% disability, certainly, the compensation awarded by the Tribunal cannot be viewed as exorbitant or excessive. The very fact that the Tribunal awarded interest at 6% per annum on the compensation amount shows that the Tribunal, in fact, went conservatively. There is no merit in the appeal.

11. The appeal is, accordingly, dismissed confirming the order and decree, dated 09.05.2011, in M.V.O.P. No.475 of 2008, passed by the Tribunal in all respects. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

October 25, 2017.

Mgr