

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. NO.273 OF 2014

ORDER:

This appeal is preferred by the appellant/insurance company questioning the judgment of the Motor Accident Claims Tribunal- cum- VIII Additional District Judge (FTC) Chittoor (for short, Tribunal) in M.V.O.P.No.201 of 2007 dated 03.06.2011, on the ground that the compensation awarded by the Tribunal is excessive.

2. The brief facts of the case are that on 29.07.2006 at about 5.30 PM., when the first respondent was going along with his wife on his TVS-50 XL on Chittoor – Pallipattu Road at Kotha Indlu bus stop from Chittoor to Puttu side, the driver of the car bearing No.TN09AD 7438 drove the same in a rash and negligent manner and dashed the said vehicle, for which both of them received grievous and multiple injuries. Immediately, they were shifted to Government Hospital, Chittoor and from there to SVRR Hospital, Tirupati. The first respondent spent nearly Rs.50,000/- towards medical expenses, Rs.18,000/- towards transportation, Rs.25,000/- towards special diet and that he filed the claim petition claiming compensation of Rs.2,00,000/-.

3. The respondents in the claim petition filed their separate counters denying the allegations and contended that the accident took place due to the rash and negligent driving of the injured himself and they are not liable to pay any compensation and therefore prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the car and awarded Rs.25,000/- for the injuries, Rs.1,47,420/- towards disability suffered by him, Rs.3,000/- towards transportation and Rs.2,000/- towards extra nourishment, total Rs.1,77,420/-, with interest at the rate of 7.5% per annum. Aggrieved by the said order, the appellant/insurance company filed the present appeal.

5. Heard.

6. The learned standing counsel appearing for the appellant/insurance company submitted that the Tribunal erred in granting compensation for the injuries without observing that the injured has incurred any expenditure for the injuries sustained by him and therefore, the first respondent is not entitled for any compensation under the head injuries.

7. A perusal of the award passed by the Tribunal reveals that an amount of Rs.25,000/- was awarded under the head of injuries, which is not contemplated under any of the heads as the main cause of action arising out of the head of injury and the claimant is entitled for the consequential benefits, such as pain and suffering, medical expenses and transportation etc. Hence, the amount awarded for the purpose of injuries is disallowed. The remaining part of award of the Tribunal remains unchanged and the claimant is entitled to withdraw amount with interest and costs as stated in the award.

8. Accordingly, the Motor Accident Civil Miscellaneous Appeal is allowed in part. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

T.AMARNATH GOUD,J

Date: 23-11-2018
Shr

