

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1389 OF 2014

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the award dated 1.03.2008 passed in M.A.T.O.P.No.1021 of 2005 by the Motor Accident Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Khammam (for short, the Tribunal).

2. The brief facts of the case are that on 01-06-2002, the appellant boarded the auto bearing No.AP20U 5007 to go to Laxmapuram and when the auto reached near BPL School, Sarapaka, the driver of the auto drove the same with high speed in a rash and negligent manner and hit the culvert in order to avoid the hit to D.B.Cart, which was coming in the opposite direction, resulting injuries to the appellant. The appellant filed a petition claiming compensation of Rs.1,00,000/- for the injuries sustained by him.

3. During the pendency of the claim petition, respondent No.1 died. The claimant did not bring the legal representatives of the first respondent on record and therefore, the claim against the first respondent abated as per the orders of the Tribunal dated 06.03.2006.

4. Respondent No.2 filed a counter denying the averments of the claim petition and contended that the appellant is not entitled to claim any compensation and that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the evidence produced by the parties, the Tribunal came to the conclusion that the accident occurred due to

the rash and negligent driving of the auto by its driver and thereby granted compensation of Rs.4,000/-. Aggrieved by the said award, the present appeal is filed by the claimant.

6. Heard Mr.Ravishankar Jandhyala, learned standing counsel appearing for the second respondent/insurance company.

7. The learned standing counsel appearing on behalf of the insurance company relied on the judgment reported in **Oriental Insurance Company Limited, Ananthapur V.Dr.M.Mallesappa¹** and **Vaddi Raghava V.Nekella Surya Rao²**, and contended that the appellant did not brought on record the legal representatives of the first respondent and in the light of the above decisions since no case was made out against the first respondent, the responsibility cannot be passed on to the insurance company.

8. The Tribunal awarded an amount of Rs.4,000/- as against the claim of Rs.1,00,000/- by taking into consideration the injuries sustained by the appellant and the said injuries seems to be simple in nature. The Tribunal passed a well considered award and it needs no interference, hence the same is liable to be dismissed.

9. In the result, the Motor Accident Civil Miscellaneous Appeal is dismissed. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 28.11.2018
Shr

¹ 2007 (1) ALT 428

² 2007 (1) ALT 446