

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1033 OF 2006

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/respondent No.3 aggrieved by the grant of compensation of Rs.28,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit or realisation to respondent No.1/claimant against a claim of Rs.1,00,000/-, by the learned Chairman, Motor Accident Claims Tribunal – cum - III Additional District Judge, (Fast Track Court), Prakasam at Ongole *vide* order, dated 22.03.2005, passed in M.V.O.P.No.492 of 2002.

2. Heard the submissions of the learned counsel appearing for the appellant/respondent No.3 and the learned counsel appearing for respondent Nos.2 and 3/respondent Nos.1 and 2, and perused the material on record.

3. Learned counsel for the appellant/respondent No.3 would contend that the motor cycle bearing No.AP 27 C 808 does not belong to the appellant/respondent No.3; that the appellant/respondent No.3 was neither the owner of the said vehicle nor driving the same at the time of the accident, and he was only a pillion rider at the time of accident; that the appellant/respondent No.3 also suffered injuries in the subject accident, but the Tribunal, having held that the appellant/respondent No.3 is the owner of motor cycle bearing No.AP 27 C 808, tagged the liability against the appellant/respondent No.3, which is erroneous; that the Tribunal

granted excess compensation of Rs.28,000/- for simple injuries and ultimately, prayed to set aside the impugned award.

4. On the other hand, learned counsel appearing for respondent Nos.2 and 3/respondent Nos.1 and 2 would contend that the Tribunal analysed the entire evidence on record and rightly tagged the liability against the appellant/respondent No.3; that there are no circumstances to vary with the impugned order and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel for the appellant/respondent No.3 and the learned counsel for respondent Nos.2 and 3/respondent Nos.1 and 2, the following points have come up for determination:

- “1. Whether the Tribunal is justified in granting a compensation of Rs.28,000/- to the claimant? and***
- 2. Whether the Tribunal is justified in tagging the liability against the appellant/respondent No.3?”***

6. **POINT No.1:-**

P.W.2 – Dr.B.Venkata Rao, in his chief examination, clearly deposed about the nature of injuries suffered by the claimant i.e., injuries to his left thigh and above the knee. P.W.2 had also deposed about the fracture suffered by the claimant to his right tibia as well as the disability of 10%. There is also shortage of leg due to that fracture and the claimant would have problem in walking and carrying luggage. Having considered the same, the Tribunal is justified in granting the compensation of Rs.28,000/- with interest at the rate of 7.5% per annum from the date of

petition till the date of deposit or realisation and the same does not warrant interference of this Court.

7. **POINT No.2:-**

Having elaborately dealt with the ownership of the motor cycle bearing No.AP 27 C 808, the Tribunal held that the appellant/respondent No.3 purchased the same from respondent No.3/respondent No.2 and could not get a transfer in his favour. Relying on the evidence, counter and suggestions given to the witnesses and after elaborately discussing the same, the Tribunal held that the appellant/respondent No.3 is the purchaser of the offending motor cycle bearing No.AP 27 C 808 and he did not take steps to transfer the ownership of the vehicle in his name. The Tribunal rightly held the appellant/respondent No.3 as the owner of the motor cycle bearing No.AP 27 C 808 and directed him to pay the compensation awarded. There is no infirmity in the impugned order and interference of this Court is unwarranted. The appeal is devoid of merit and is liable to be dismissed.

8. In the result, the appeal is dismissed. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 19.09.2018
AMD

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