

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA.No.786 of 2018

JUDGMENT:

Heard Sri P. Durga Prasad, learned Standing Counsel for the appellant – Corporation represented by its Managing Director, Vijayawada, who is the 2nd respondent in M.V.O.P.No.236 of 2015 on the file of the Chairman, Motor Accidents Claims Tribunal, Krishna, Machilipatnam (for short, 'the Tribunal').

The present appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is filed aggrieved over the order and decree, dated 09.02.2017, in the aforesaid MVOP, which was partly allowed granting compensation of Rs.2,99,000/- with interest at 7.5% per annum from the date of petition till realisation.

Learned counsel for the appellant would submit that the amount awarded by the Tribunal is on higher side and there was no proper appreciation of medical evidence on record. He would also submit that there was negligence on the part of the claimant itself in the aforesaid M.V.O.P. On these two grounds, the learned counsel intends to get the order and decree under challenge set aside or modified.

The wound certificate marked as Ex.A2, as indicated in the order under challenge, would clearly show that PW.2, who was serving in Sagar Super Speciality Hospital at Vijayawada on 26.02.2015, performed surgeries on the claimant and, on neurological examination, found that the claimant was suffering from complete paralysis of left upper limb and, therefore, he operated for correction

of C-4 to C-6 carpuctemy and fixed K-Jent plates and discharged the claimant on 09.03.2015. Of course, the evidence of PW.2 to the effect that the health condition of the claimant has improved and the claimant was able to walk with support, completely destroys the contention and evidence of the claimant, who was examined as PW.1. Though, the claimant has taken plea that he was totally bed ridden, the same was not accepted by the Tribunal and, therefore, the Tribunal, once again examining the evidence of PW.2, more particularly, the answers given by PW.2, arrived at the conclusion that the claimant did not take treatment under Arogya Sree Scheme and, thereby, concluded that it would be reasonable to award Rs.2,99,000/-, put together awarding various amounts under various heads and, accordingly, granted the same with interest at 7.5% per annum. However, the Tribunal directed the respondents in the O.P to pay 50% of the said compensation amount with costs and interest and the remaining 50% of the compensation to be borne by the claimant, as he drove the vehicle without having valid driving licence. Further, the order under challenge shows that, though, respondent Nos.1 and 2 therein were made liable to pay 50% of the compensation along with costs and interest, the final liability of paying the same was fastened on the Corporation alone. When the medical evidence clearly indicates that one of the upper limbs of the claimant was totally dysfunctional and the other three limbs, though, were weak, but still, the claimant was able to walk with support, then, certainly, the amount of Rs.2,99,000/-

granted by the Tribunal cannot be construed as excessive or arbitrary.

In that view of the matter, there is no merit in the appeal.

Hence, the appeal is dismissed confirming the order and decree of the Tribunal. No order as to costs.

Miscellaneous Petitions, if any, pending in the present appeal, stand closed.

A. SHANKAR NARAYANA, J

04.04.2018

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