

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. NO.460 OF 2014

JUDGMENT:

This appeal is filed by the claimant challenging the award dated 31.05.2012 passed in M.V.O.P.No.453 of 2010, by the Motor Accident Claims Tribunal-cum-IV Additional District Judge (FTC), Warangal (for short, the Tribunal).

2. The brief facts of the case are that on 21.11.2008, while the claimant along with another was traveling in an auto trolley by sitting on its backside, proceeding to Muddunur village from Enumamula grain market, and when the auto reached the outskirts of Konaimakula village near Sri Venkateshwara Ceramic Industries situated on the Warangal-Narsampet BT road at about 4.00 AM., it has met with an accident with another auto bearing registration No.AP36TT/R 5334 due to the rash and negligent driving of the said auto with high speed. In the said accident, the claimant sustained multiple grievous injuries and he was shifted to MGM Hospital, Warangal, for treatment. The claimant filed a petition claiming compensation of Rs.3,00,000/- for the injuries sustained by him.

3. The first respondent in the claim petition remained ex parte. The second respondent filed a counter denying the averments in the claim petition and contended that the claimant wantonly not made the driver, owner and insurer of the auto in which he was

traveling as a party to the petition and that the amount claimed by the appellant is highly excessive and prayed to dismiss the claim petition.

4. After considering the evidence produced by the parties, the Tribunal held that the accident occurred due to the contributory negligence of both the drivers of the autos and accordingly, the Tribunal awarded an amount of Rs.1,61,000/- and directed respondents 1 to 3 therein to pay the compensation to the extent of 50% i.e., Rs.80,500/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization. Aggrieved by the said award, the present appeal is filed by the claimant.

5. Heard.

6. It is a case of accident and the Tribunal passed a well considered order. As against the claim of Rs.3,00,000/- towards the injuries, an amount of Rs.1,61,000/- has been awarded and in view of the contributory negligence, 50% of the same i.e., Rs.80,500/- has been granted with interest at the rate of 7.5% per annum.

7. The learned Standing Counsel appearing for the respondents/Bajaj Allianz General Insurance Company contended that the accident occurred due to the contributory negligence of both the drivers and hence the Tribunal rightly directed the respondents to pay 50% of the awarded amount.

8. In view of the facts and circumstances of the case, I do not accept the contention of the learned Standing Counsel for the respondents, as the contributory negligence was not established beyond reasonable doubt. Therefore, this Court is inclined to negative contributory negligence and to direct the respondents to pay total amount of Rs.1,61,000/- to the appellant. Except the above modification, the award passed by the Tribunal remains unchanged.

8. Accordingly the appeal is partly allowed to the extent indicated above. Miscellaneous petitions pending if any shall stand closed. No order as to costs.

Date: 26-11-2018
Shr

T.AMARNATH GOUD, J

