

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

C.M.A.NO. 2654 OF 2004

ORDER:

The appellant is the injured claimant in O.P.No.928 of 2000 on the file of Motor Accident Claims Tribunal (District Judge), Nizamabad. He filed claim petition claiming an amount of Rs.1,50,000/- for the injuries sustained by him in a motor accident that occurred on 28.7.1997 while he along with others was travelling in a lorry bearing No.AP 13/T 2301 from Amdapur towards Bodhan. When the lorry reached near Arsapally cross road at Bodhan, the driver of the lorry drove the lorry at high speed and in rash and negligent manner, as a result of which, the lorry went off the road and turtled down. In the said accident, the appellant/petitioner sustained fracture of right clavicle, fracture of ribs and multiple grievous injuries on head and legs. He was shifted to Pragathi Nursing Home, Bodhan. He was aged about 32 years and was earning Rs.6,000/- per month as a milk vendor and labour on contract basis.

2. The 1st respondent filed a written statement denying the said averments.

3. The 2nd respondent also filed a written statement stating that the petitioner was an unauthorised passenger and hence, it is not liable to pay the compensation.

4. On the basis of the above pleadings, the Tribunal framed the following issues:

“1. Whether the petitioner is entitled to compensation sought for?

2. To what relief, the petitioner is entitled for?”

5. Before the Tribunal, the petitioner, besides examining himself as PW1, examined one Dr.L.Ramulu as PW2 and marked Exs.A1 to A5. On behalf of the 2nd respondent, the Senior Assistant of the Company was examined as RW1 and marked Ex.B1, insurance policy. The Tribunal, on evidence, held that the accident occurred due to rash and negligent driving of the driver of the lorry. PW1 was the claimant and PW2 was Orthopaedic Surgeon and he was examined in support of the case of the claimant with regard to the injuries sustained by him in the accident. Since PW2 was not the Doctor who treated the claimant, his evidence was not taken into consideration. Ex.A5 is the Wound Certificate issued by Dr.Navrathan Singh showing that he treated the claimant on 28.7.2997 for the fracture of clavicle bone . But the injuries mentioned in Ex.A5 were also not taken into account on the

ground that the Doctor was not examined. The Tribunal, accordingly, awarded an amount of Rs.5,000/- for the injuries sustained by the claimant. The defence of the 2nd respondent that the Company is not liable to pay the compensation was also negated in view of the decision of the Hon'ble Supreme Court in the case of NEW INDIA ASSURANCE COMPANY vs. SATPAL SINGH AND OTHERS¹. Thus, an amount of Rs.5,000/- was awarded along with interest @ 9% p.a. from the date of petition till the date of realization making the respondents 1 and 2 jointly and severally liable to pay the said compensation. Seeking enhancement of the said amount, the present appeal was filed.

6. Since there was no dispute with regard to the injuries sustained by the petitioner in the accident that occurred on 28.7.1997, the only point that has to be considered in the present appeal is with regard to the quantum of compensation payable to the petitioner for the said injuries.

7. Ex.A5 is the Wound Certificate issued by one Dr.Navarathan Singh who was not examined. Even though he was not examined, the fracture of clavicle bone mentioned in the said certificate for which he treated the claimant, cannot be disbelieved. Since the accident occurred way back in 1997 and it is a grievous injury, this Court feels that the amount of

¹ (2001) 1 SCC 237

compensation of Rs.5,000/- can be enhanced to Rs.20,000/- and accordingly, the appeal is partly allowed enhancing the compensation amount from Rs.5,000/- to Rs.20,000/- along with interest @ 9% p.a. from the date of petition till the date of realization on the enhanced amount of compensation.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

Date: 3.4.2018

KPM

A. RAMALINGESWARA RAO,J

