

HONOURABLE SRI JUSTICE D.V.S.S. SOMAYAJULU.

M.A.C.M.A.NO. 419 OF 2012

JUDGMENT :

MACMA.NO. 419 of 2012 is filed by the appellant-claimant questioning the judgment and decree dated 19/07/2005 passed in OP.No. 787 of 2000 by the Chairman, Motor Accident Claims Tribunal [District Judge], Nizamabad.

2. The claim-petition was filed under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.1,00,000=00 on account of the injuries sustained by the appellant-claimant. The petitioner himself was examined as PW-1 and marked Exs.A-1 to A-5. Ex.X-1 case sheet was summoned and marked. This document, Ex.X-1 is the case sheet of Government Civil Hospital, Nizamabad. The lower Court after considering the evidence on record came to the conclusion that in the light of the available evidence, a sum of Rs.3,000=00 is to be awarded to the petitioner-claimant along with interest @ 9% p.a., from the date of judgment with proportionate costs and interest. Questioning the same, the present appeal is filed by the appellant-claimant.

3. This Court has heard Sri Y.S. Yellanand Gupta, learned counsel for the appellant-claimant and Sri Gadi Ramachandra Reddy, learned standing counsel for the second respondent-Insurance Company.

4. The learned counsel for the appellant argues that the award of the compensation is very meager and it should be enhanced. According to the learned counsel the evidence filed including the charge sheet clearly discloses that the accident did occur. He also points out that the petitioner was treated in the Government Hospital and the same is borne out by Ex.X-1/Case Sheet. The learned counsel argues that the petitioner was a petty businessman, as he is a sweet vendor in Nizamabad and his income is Rs.3,500/- per month prior to the accident. According to the petitioner, due to grievous head injury he is unable to conduct his business, move his right hand, getting a head ache and is unable to do any work. According to the petitioner, he is permanently disabled.

5. The petitioner was examined as PW-1 and in his evidence also he stated that he was the vendor of sweets and that he is permanently disabled. In his evidence he states that he is earning about Rs.5,000=00 to Rs.6,000=00 per month. Therefore, the learned counsel argues that appropriate compensation was not granted by the lower Court.

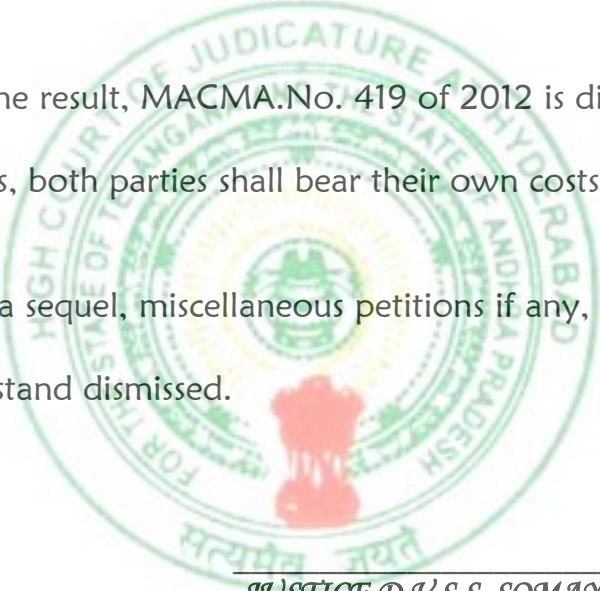
6. In reply thereto, the learned Standing Counsel for the respondent-Insurance Company points out that the injuries sustained by the appellant-claimant are simple in nature. Absolutely not a shred paper is filed by the learned counsel for the appellant to prove the income of the appellant or the affect of the injuries including the so-called disablement. The learned Standing Counsel also points out that while in the claim-petition, claim is made stating that the petitioner was earning Rs.3,500/- per month in his oral evidence the petitioner deposed that he was earning about Rs.5,000=00 to Rs.6,000=00 per month. He states that both the figures are not correct and there is no documentary proof filed to support either of these two figures. The learned Standing Counsel also points out that the injuries are simple and do not have any permanent impact. Therefore, the award of compensation of Rs.3,000=00 is correct as per the learned Standing Counsel for the respondent-Insurance Company.

7. This Court after examining the record and after hearing both the learned counsel notices that Ex.X-1 medical case record shows that the appellant was admitted at 09:00 p.m., on 04/03/2000 and that he absconded early morning of 06/03/2000 at 07:00 a.m. Therefore, he was effectively in the hospital less than 48 hours. In addition the injuries are mentioned in Ex.X-1 do not show that they are serious in nature. There is no evidence of any head injury let alone grievous head injury or of a fracture as

described in Para No.11 of the claim-statement. Neither the injuries nor the affect of the injuries nor the income are proved. This Court after reviewing the entire evidence on record notices that the claimant has failed to prove the nature of the injuries and their affect on his avocation. Neither his income nor his avocation are proved. Hence, awarding compensation over and above, what is awarded in the opinion of this Court is not called for. Hence, this Court finds no merits whatsoever in this appeal and accordingly, the same is dismissed.

8. In the result, MACMA.No. 419 of 2012 is dismissed. In the circumstances, both parties shall bear their own costs.

9. As a sequel, miscellaneous petitions if any, pending in this appeal shall stand dismissed.



JUSTICE D.V.S.S. SOMAYAJULU

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(RESULT : DISMISSED)

Date : 30/10/2018
Court Master: I s L
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