

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

M.A.C.M.A.No.317 of 2012

JUDGEMENT:

This appeal is directed against the order dated 14.06.2007 in OP No.1737 of 2005 on the file of the Chairman, MACT cum XXI Additional Chief Judge, Hyderabad, wherein the claim of the claimant for the injuries sustained by him in a motor vehicle accident, was allowed in part, awarding a sum of Rs.25,000/- with interest at 7.5% per annum from the date of petition, till the date of realization.

2. The appellant herein is the 2nd respondent-insurer, the 1st respondent herein is the petitioner and the 2nd respondent herein is the owner of the car, in the original petition. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The petitioner filed claim application seeking compensation of Rs.50,000/- on account of the injuries sustained by him in a road accident that occurred on 04.06.2005. The case of the petitioner, in brief, is that on the date of accident, at about 4.00 p.m., when he was proceeding on his cycle, one car bearing No.AP 09 BD 3472 of the 1st respondent, insured with the 2nd respondent, came at high speed in a rash and negligent manner and dashed the petitioner, causing injuries to him; a case in Cr.No.50 of 2005 was registered against the driver of the car by Yacharam PS; the petitioner was working as casual labour and contributing his income to his family and due to the accident, he became permanently disabled.

4. The 1st respondent remained *ex-parte*. The 2nd respondent-insurer filed written statement denying the allegations of the petition.

5. On the basis of the above pleadings, the Tribunal framed three issues. In support of the case of the petitioner, PWs.1 and 2 were examined and got marked Exs.A.1 to A.5. On behalf of the 2nd respondent, no oral evidence was adduced and only a copy of the policy was marked as Ex.B.1.

6. Heard Sri Kota Subba Rao, learned standing counsel for the appellant. None appears for the 1st respondent. The case against the 2nd respondent was dismissed for default on 13.09.2011. Perused the records.

7. The finding of the Tribunal that the accident occurred due to the rash and negligent driving of the driver of the 1st respondent Van is not seriously disputed by the appellant. Considering the evidence of PW.2, an eye witness to the accident, coupled with Exs.A.1-FIR and A.2-charge sheet, I am of the view that the accident occurred only due to the rash and negligent driving of the driver of the 1st respondent.

8. Coming to the claim, the petitioner claimed a sum of Rs.50,000/- as compensation under various heads for the injuries sustained by him. The Tribunal after considering the evidence on record and Ex.A.4 discharge summary and Ex.A.5 Medical bills (2), granted a sum of Rs.25,000/- as compensation and the same was also not disputed by the appellant and hence, I see no reason to interfere with the award granted by the Tribunal in favour of the petitioner.

9. The only contention of the appellant-insurer is that, on verification, the appellant-insurance company found that the policy Ex.B.1 was not issued by them and the vehicle of the 1st respondent was insured with Baja Alliance Insurance Company Limited and hence, the appeal may be dismissed. He, however, seeks liberty to proceed against the insurance

company with which the vehicle of the 1st respondent was insured, for recovery of the amount deposited by them, in accordance with law.

10. In view of the same, the appeal is dismissed. However, the Appellant is at liberty to proceed in accordance with law against the other insurance company with whom the vehicle of the 1st respondent was insured. No order as to costs. Miscellaneous petitions pending, if any, in this appeal, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date: 12.10.2018
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