

THE HON'BLE SRI JUSTICE M.GANGA RAO

M.A.C.M.A. No. 419 OF 2011

JUDGMENT:

The appellant is the injured-claimant. He filed this appeal against the award and decree dated 17.08.2004 passed in O.P.No.66 of 2003 by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Karimnagar, granting compensation of Rs.46,000/- against the claim of Rs.2 lakhs for the injuries sustained by him in the motor accident occurred on 18.12.2002.

2. The appellant filed the claim petition under Section 166(1)(a) of the Motor Vehicles Act, 1988, alleging that on 18.12.2002 he went to Alugunur village along with his friend for the purpose of campaigning in the elections of Urban Bank and when they reached the house of Sarpanch of Alugunur village and were talking to one Singireddy Ramana Reddy and Sudhakar Reddy, the 1st respondent drove his Toyoto Qualis bearing No.AP9 AJ 200 in a rash and negligent manner while proceeding towards Karimnagar and dashed against the Kinetic Honda of the appellant, as a result he fell down and sustained fracture injuries. He was immediately shifted to Sudha Hospital, Karimnagar and underwent treatment as an inpatient for 13 days. He also underwent operation with fixation of rod to the fracture of left thigh bone. His right hand was also fractured. He was on bed rest for about 6 ½ months. In spite of treatment and bed rest, he was

not able to walk properly. He was a student of II year LLB at Justice Kumarayya College, Karimnagar. He was also a sportsman and active in athletics. He had an aim to become Sub-Inspector of Police and was preparing for the same. He also appeared in the physical and written examination for the selection of the post of Sub-Inspector. Due to injuries received in the accident, he became unfit to appear for the selection and suffered huge loss. He incurred an expenditure of Rs.30,000/- for his treatment. He also requires surgery for removal of steel rod by spending Rs.15,000/-.

3. The second respondent remained *ex parte*.

4. The respondents 1 and 3 filed separate counters, denying the averments of the claim petition. They specifically pleaded that the driver of the offending vehicle has no valid driving licence and also disputed the coverage of the offending vehicle under the insurance policy.

5. Based on the above pleadings, the Tribunal framed the following issues:

- 1) Whether the accident had occurred due to rash and negligent driving of the vehicle bearing No.AP-9-AJ-200 by the 1st respondent?
- 2) Whether the petitioner is entitled to recover compensation and if so to what amount and from whom?
- 3) To what relief?

6. The Tribunal examined PWs 1 to 3 on behalf of the appellant/claimant and got marked Exs.A.1 to A.8. Ex.B.1 was marked on behalf of the respondents.

7. The Tribunal, based on the evidence of PW1 coupled with documentary evidence Exs.A.1 and A.2, found that the offending vehicle bearing No.AP36E 8964 was involved in the accident. As per Ex.A.2, the accident occurred due to rash and negligent driving of the 1st respondent and the appellant sustained injuries in the accident, for which he was entitled for compensation. The offending vehicle was covered by valid and subsisting insurance policy Ex.B.1. It is also held that the 1st respondent being the driver, the 2nd respondent being the owner and the 3rd respondent being the insurer are jointly and severally liable to pay the compensation.

8. As per the evidence of PW1 - appellant/claimant, PW2 - doctor and PW3 - S.Ramana Reddy, the Tribunal found that the appellant sustained fracture injury on his left leg and a fracture injury on his right hand. He was shifted to Sudha hospital, Karimnagar and took treatment for 12 days. A Surgery was conducted at the hospital, a rod was placed for the fracture of the left hip and discharged with an advice of rest for 6 ½ months. In support of injuries, he also got examined PW2, who is an Orthopaedic surgeon and consultant doctor at Sudha hospital, Karimnagar.

9. According to the evidence of PW2, the appellant was admitted in Sudha hospital with fracture of shaft of left femur and fracture of right 3rd meta carpal. A surgery was conducted on 20.12.2001 with interlocking nailing of left femur and fracture of right hand was treated with plaster.

10. The Tribunal granted an amount of Rs.25,000/- towards pain and suffering. The Tribunal also granted an amount of Rs.18,479/- against the claim of Rs.30,000/- towards medical expenses as per Ex.A.8, wherein it shows that he incurred Rs.18,479/-. The Tribunal has not granted any future medical expenses for removal of rod by taking into consideration of the evidence of PW2 – doctor, who did not state in certain terms that he requires another surgery. Hence, the Tribunal was not inclined to award any amount towards the cost of future surgery for removal of rod.

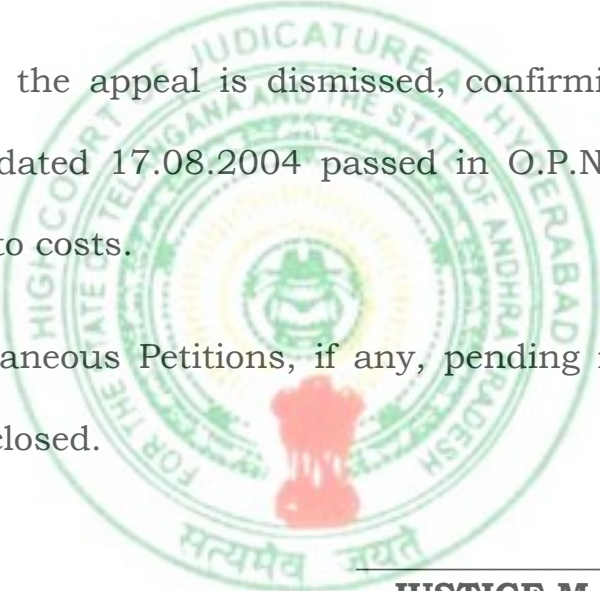
11. The further contention of the appellant is that he was rendered physically unfit for the post of Sub-Inspector for which he was attended. However, the Tribunal, considering the evidence of PW1 and the documentary evidence Ex.A.6, held that he was studying LL.B. II year and granted Rs.2,000/- towards loss of studies. Hence, the appellant is entitled for compensation of Rs.45,479/-, which is rounded off to Rs.46,000/-. The Tribunal granted total compensation of Rs.46,000/- with proportionate costs and interest @ 9% per annum from the date of petition till the date of realisation.

The respondents 1 to 3 were directed to pay the compensation amount within one month from the date of order.

12. This Court, having heard the contentions of the learned counsel for the parties and in the facts and circumstances of the case, found that the Tribunal has rightly granted total compensation of Rs.46,000/- based on the evidence of PWs 1 to 3 and Exs.A.4 to A.8, which could not be said to be meagre. This Court found that there is no ground to interfere with the award of the Tribunal.

13. Hence, the appeal is dismissed, confirming the award and decree dated 17.08.2004 passed in O.P.No.66 of 2003. No order as to costs.

14. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.



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