

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. NO.133 OF 2014

JUDGMENT:

This appeal is filed by the claimant challenging the order dated 13-08-2009 passed in O.P.No.13 of 2008, by the Motor Accident Claims Tribunal-cum-II Additional District Judge, Madanapalle, Chittoor District (for short, the Tribunal).

2. The brief facts of the case are that on 28-10-2005 at about 2.30 PM., while the claimant was engaged in laying Bangalore – Madanapalle road, the lorry bearing No.TN23D 8677 driven by its driver in a rash and negligent manner, dashed the appellant, who fell into a pit and sustained fracture to his leg and mandible. He was admitted in SVRR Hospital, Tirupati. On account of fracture to his leg, necessary operations were conducted and steel rods have been fixed and on account of fracture to mandible, the appellant is unable to walk and chew food. He spent nearly a sum of Rs.25,000/- towards extra nourishment and a sum of Rs.16,500/- towards transport and attendant and that the appellant used to earn Rs.10,000/- per month. The claimant filed the above O.P., seeking compensation of Rs.4,00,000/- for the injuries sustained by him.

4. The first respondent in the claim petition remained exparte. The second respondent filed a counter denying the averments in the claim petition and contended that the amount claimed by the

appellant is highly excessive and that the appellant is not entitled for any amount from the respondents and therefore, prayed to dismiss the claim petition.

5. After considering the evidence produced by the parties, the Tribunal held that the appellant failed to prove the accident and respondents are not liable to pay any compensation to the claimant.

6. Heard.

7. Admittedly in the light of the charge sheet and also the medical record, there is a fracture and the appellant fell in a pit while working on the road side due to the hit by the lorry and the said fact was not in dispute.

8. Though the appellant claimed a sum of Rs.4,00,000/-, there are discrepancies in the wound certificate and medical record with regard to the dates and occurrence of the incident. Therefore, the Tribunal has dismissed the claim of the appellant.

9. In the light of the investigation report, this Court feels that the accident cannot be denied since the claimant being an illiterate and worked as a labour on the road side and he has suffered the fracture and assuming that he proved his case towards his claim and trauma, cannot be denied. Hence, an amount of Rs.25,000/- is awarded towards injuries, treatment and nourishment, with interest at the rate of 7.5% per annum from the date of filing claim

petition till the date of realisation. The second respondent is directed to deposit the said amount within a period of one month from the date of receipt of a copy of this order and the appellant is entitled to withdraw the same without furnishing any security.

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

T.AMARNATH GOUD, J

Date: 23-11-2018
Shr

