

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

C.M.A.No.4467 of 2003

&

I.A.No.2 of 2004 (Cross-Objections (SR)
No.11541/ 2004)

JUDGMENT:

The present appeal is directed against the order, dated 24.07.2003, in O.P.No.604/2000, on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Additional District Judge, Nizamabad (for short "the Tribunal"). The 3rd respondent-Insurance Company is the appellant herein.

The claim petition was filed by the 1st respondent herein claiming an amount of Rs.2,87,500/- for the injuries sustained by him in a motor accident that occurred at about 5 p.m on 03.03.2000. It was alleged that respondent No.1 along with others were travelling in Tata Sumo Van bearing registration No.AP10-L7830 from Nirmal in order to go to Vemulawada, when the Van reached the outskirts of Doodgaon village near Chakriyal road on NH-7 road, the driver of the vehicle drove it in high speed and in rash and negligent manner, as a result of which, the vehicle turned turtle and fell into a pit by the side of the road. In the said accident, the petitioner/claimant and others sustained fractures and injuries. They were admitted in Church of South India Hospital, Doodgaon, and thereafter took treatment in private hospitals and spent Rs.62,000/-towards medicines and for extra nourishment. The said injuries caused permanent disability to the petitioner/claimant.

Respondents Nos.1 & 2 in O.P, who were driver and owner of the offending vehicle remained *ex parte*. Respondent No.3, who is the

appellant herein, filed counter, denying the accident and taking usual pleas including excessive of claim.

On the above pleadings, the Tribunal framed the following issues:

1. Whether the accident was due to rash and negligent driving of the vehicle bearing No.AP-10-L-7830 by its driver?
2. Whether the petitioner is entitled for compensation, if so, to what amount and from which of the Respondents?
3. To what relief?

The claimant got examined himself as PW 1 and also examined PW-2. He marked Exs.A1 to A9. The 3rd respondent marked Ex.B1, but did not adduce any oral evidence.

The Tribunal awarded an amount of Rs.1,30,000/- along with interest @9% p.a. by its order, dated 24.07.2003.

The learned counsel for the appellant submitted that the amount of compensation granted by the Tribunal is highly excessive and the injuries sustained by the claimant did not result in any permanent partial disability.

This court noticed that the claimant examined PW 2, who is Orthopaedic Surgeon, and he certified that the injuries sustained by the claimant resulted in 40% of permanent partial disability. The Tribunal taking into account the said fact into consideration, awarded an amount of Rs.1,10,000/- towards compensation. In addition, the Tribunal awarded an amount of Rs.10,000/- towards medicines and for extra nourishment, and further awarded an amount of Rs.10,000/- towards past and future pain and sufferings. In total, the Tribunal awarded compensation of Rs.1,30,000/- along with interest @9% p.a.

By taking the above facts into consideration and the order of the Tribunal, this Court sees that there is no point in the present appeal warranting interference with the impugned order.

Accordingly, the Appeal is dismissed, confirming the impugned order dated 24.07.2003. No order as to costs.

With regard to Cross-Objections filed by the claimant are concerned, in view of the nature of injuries contained in Ex.A4 and the quantum of amount awarded, this Court sees no ground to enhance the amount, and accordingly, the Cross-Objections are dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

Date: 22.03.2018
Dsr

A.RAMALINGESWARA RAO,J

