

SMT JUSTICE T. RAJANI

MA CMA No.271 of 2012

JUDGMENT:

This appeal is preferred by the appellant, who is the 2nd respondent before the court below, questioning the judgment, dated 14.11.2006, on the grounds that the court below erred in fastening liability on the appellant-insurance company; that it erred in awarding very exorbitant amount towards compensation; that it ought to have seen that the Doctor, who was examined as PW2, was not the Doctor, who treated the petitioner; that it ought to have seen that there is a Medical Board to assess the disability and no explanation was given by the petitioner as to why he did not obtain disability certificate from the Medical Board, which is a competent and authenticated body. On the above grounds, the appellant seeks to set aside the judgment of the court below.

2. Heard both the counsel.

3. The brief facts of the case are that on 03.08.2000, the petitioner was going on a scooter bearing NO.AAJ1987 from Armour towards Kamareddy side and at about 04:30 AM when he reached Daggi (V) Shivar, at the same time a lorry bearing No.MTG-8335 driven by its driver in a rash and negligent manner and with high speed, came from behind and tried to overtake the scooter and while overtaking, the lorry suddenly turned to left side of the road and dashed against the scooterist, due to which the petitioner sustained fracture injuries to his legs

and hands. He was working as a fisher man prior to the accident and because of the injuries, he sustained disability and consequently, he lost his income of Rs.6,000/- per month, which he was earning by doing fish business.

4. The 1st respondent remained *ex parte*. The 2nd respondent/ Insurance Company filed counter, denying the averments of the petition and contending that there was no valid driving licence to the petitioner.

5. The court below, on the rival pleadings, framed the following issues for consideration:

1. Whether the accident was due to rash and negligent driving of the lorry bearing No.MTG-8335 by its driver?
2. Whether the petitioner is entitled for compensation, if so, to what amount and against which of the respondents?
3. To what relief?

6. During the course of trial, PWs.1 and 2 were examined and Exs.A1 to A33 were marked on behalf of the petitioner. Ex.B1 was marked on behalf of the 2nd respondent. Ex.C1 was also marked through the Commissioner.

7. Though there are various grounds taken in the grounds of appeal, the counsel for the appellant, at the hearing, restricts her argument only to one ground i.e., with regard to the disability. She contends that the Doctor, who testified about the disability of the petitioner, is not an authorised person and hence, his evidence cannot be considered without any documentary proof from the Medical board. The petitioner did not examine any other Doctor except the Doctor, who issued the

disability certificate. Admittedly, the said Doctor is not the Doctor, who treated the petitioner, for the injuries sustained by him. But the judgment of the court below shows that it did not consider the disability, as stated by the said Doctor or for that matter, it did not consider the disability at all. The court below only awarded compensation under the following heads:

1. Compensation for (3) grievous injuries	:	Rs.15,000-00
2. Compensation for (1) simple injuries (1 X Rs.2,000/-)	:	Rs.2,000-00
3. Compensation for medical bills	:	Rs.30,000-00
4. Compensation for pain and sufferings	:	Rs.50,000-00
5. Transportation and extra nourishment charges	:	Rs.8,000-00
6. Compensation for future treatment	:	Rs.20,000-00
Total compensation	:	Rs.1,25,000-00

8. Hence, in the above circumstances, the sole ground on which the appellant rests his case does not exist. This court does not, hence, see any reason to interfere with the judgment of the court below.

Accordingly, the MACMA is dismissed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

August 10, 2018
LMV