

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.707 OF 2014

JUDGMENT:

This appeal is filed by the appellant-insurance company aggrieved by the Order dated 06.02.2012 passed in I.A.No.686 of 2011 in M.A.T.O.P.No.548 of 2006 by the Motor Accident Claims Tribunal-cum-V Additional District Judge (FTC), Khammam at Kothagudem (for short, the Tribunal).

2. The brief facts of the case are that on 10.10.2004 at about 00.10 am., while the third respondent herein was traveling in an auto bearing No.AP16N 4703 to go to Rama Varapupadu, and when the auto reached near Durga Sweet Shop, Machavaram, lorry bearing No.AP16W 1238, being driven by its driver in a rash and negligent manner, came in opposite direction and hit the auto. In the said accident, the appellant sustained fracture to his head of the femur and grievous injuries all over the body. He filed the claim petition claiming compensation of Rs.2,00,000/- against respondent No.1 and the appellant-the driver and insurer of the aforesaid lorry.

3. Before the Tribunal, the appellant filed its written statement. Thereafter, in spite of granting 6 adjournments for adducing evidence of the appellant, it failed to do so. In those circumstances, the Tribunal passed an ex parte decree dated 27.10.2006, awarding a sum of Rs.46,064/- towards compensation along with 7.5% interest. Subsequently, the appellant filed I.A.No.686 of 2011 seeking to set aside the ex parte decree dated

27.10.2006. The Tribunal, by order dated 06.02.2012, while setting aside the ex parte decree, imposed a condition to the appellant to deposit half of the decretal amount to the credit of MATOP within a time frame. Challenging the imposition of condition, the insurance company filed the present appeal.

4. This Court, by order dated 27.11.2012 in MACMAMP.No.7751 of 2012, granted interim stay on condition of appellant depositing 50% of the decretal amount along with interest and costs within a time frame.

5. Sri Kota Subba Rao, the learned counsel for the appellant, submits that the appellant deposited 50% of the decretal amount along with interest and costs and complied with the order of this Court. Smt.Ratnamala, learned counsel appearing for Sri Y.Sudhakar, learned counsel for the first respondent, did not dispute the same.

6. In that view of the matter, this appeal is disposed of directing the Tribunal to proceed with the MATOP and dispose of the same on merits, after giving reasonable opportunity to both sides. No costs. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 27.11.2018
TJMR