

HON'BLE SRI JUSTICE T. AMARNATH GOUD

M.A.C.M.A. No. 299 of 2015

JUDGMENT:-

This appeal is preferred by the appellant-claimant aggrieved by the Order and Decree dated 21.11.2014 in M.V.O.P.No.138 of 2012 passed by the Motor Accident Claims Tribunal-cum-III Additional District and Sessions Judge, Asifabad (for short, "the Tribunal").

2. The brief facts of the case are that on 10.11.2007, the claimant along with other persons was proceeding in an Auto bearing No. AP13 U 2107 from Asifabad to their village after attending their stone work in the house of one contractor. When the Auto reached near Kondapalli Bus stage at about 18:00 hours, all of a sudden, one lorry bearing No. AP27U 9569, came with high speed in a rash and negligent manner and dashed the Auto, due to which, the claimant and other persons sustained injuries. The claimant sustained fracture on right clavicle (grievous) and injury on right collar region and other injuries all over his body and a person died in this accident. Immediately after the accident, the claimant was shifted to Government hospital but the doctors were not available at that time. The claimant got admitted in Madhu Nursing Home, Kaghaznagar as in-patient and underwent several examinations and X-rays and was discharged from

hospital on 27.11.2005 and incurred an amount of Rs.25,000/- towards hospital and medical expenses. Due to the accident, the claimant sustained permanent disability and could not attend his daily works and not yet recovered and still he is undergoing treatment privately feeling acute pain and suffered a lot physically and monetarily. Hence, he filed a petition before the Tribunal claiming compensation of Rs.1,00,000/- for the injuries sustained by him against respondents Nos.1 and 2, the owner and the insurer of the aforesaid lorry.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 - Insurance Company filed counter denying the averments of the claim petition and contended that the policy particulars furnished by the claimant are not tallying with 2nd respondent's series, and at the time of the accident, the respondent No.1 was having valid and subsisting licence to drive the vehicle and the vehicle was road worthy and respondent No.1 is the registered owner of lorry and got insurable interest, as such, the 2nd respondent is not liable to pay any compensation.

4. After considering the evidence produced by the parties, the Tribunal granted a total compensation of Rs.10,000/- towards medical expenses with interest at 7.5% p.a. Being

aggrieved by the said Judgment, the present appeal is preferred by the claimant seeking enhancement of compensation.

5. Heard the learned counsel for both the parties.

6. This is a case of injury filed by the claimant against the Insurance Company for a sum of Rs.1.00 lakh. As against which, the trial Court awarded a total sum of Rs.10,000/- towards medical expenses. Being aggrieved by the same, the present appeal is preferred seeking enhancement of compensation. Unfortunately, the claimant has not filed any evidence before the trial Court in support of his claim that his monthly income is Rs.6,000/- and has also not led any evidence to that effect. Though the claimant contended that he underwent treatment in hospital, the doctor has not been examined and no medical bills have been placed before the trial Court. Ex.A3, which is the injury certificate, does not indicate about occurrence of the accident. However, with regard to the facts of the case, the fracture to the right clavicle and right collar region is a cut and the claimant underwent treatment, thus, the same cannot be ruled out, and the claimant also suffered pain which will cause inconvenience to his daily works. Hence, this Court is of the view that though the compensation of Rs.10,000/- awarded by

the Tribunal is reasonable towards medical expenses, with regard to pain and suffering a sum of Rs.10,000/- is awarded and towards nourishment a sum of Rs.5,000/- is awarded. The other part of the order remains unchanged.

7. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed to the extent indicated above. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

05.12.2018

bcj

T.AMARNATH GOUD, J

