

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.348 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 24.10.2005 passed in O.P.No.937 of 2002 by the Motor Accidents Claims Tribunal-cum-I Additional District Judge at Khammam (for short, the Tribunal).

2. The brief facts of the case are that on 27.05.2002 at 11.00 A.M., while the appellant was proceeding by scooter along with his son to Andhra Bank, Paloncha, and when they reached near Ambedkar Centre, a lorry bearing No.AP20V 647 came with high speed in a rash and negligent manner and dashed the scooter, due to which, the appellant fell down and sustained head injury, fracture of collar bone and pelvic bone and other injuries all over the body. He filed aforesaid OP claiming compensation of Rs.2,00,000/- against respondent Nos.1 to 3, driver, owner and insurer of the lorry respectively, for the injuries sustained by him.

3. Before the Tribunal, respondent Nos.1 and 2 remained *ex parte*. Respondent No.3 filed a counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that there is unexplained delay in lodging the FIR and that the claimant failed to prove the rash and negligent driving of driver of lorry and dismissed

the claim petition. Challenging the same, the claimant filed the present appeal.

5. Heard.

6. It is seen from the impugned order that the Tribunal disbelieved the case of the claimant mainly on the ground of delay in lodging Ex.A.1-F.I.R. It is apparent from the record that after the accident, the deceased was admitted in the hospital of Dr.Sudhakar, and took first aid and thereafter, he took treatment as in-patient for 10 days in the hospital of Dr.P.N.V.S.V.Prasad. Thereafter, his wife submitted a report to the police after one month of the accident.

7. Filing of complaint before the police with delay is not a ground to reject the claim made by the claimant. Admittedly, the accident has occurred on 27.05.2002 and the appellant was admitted in the hospital of P.W.2 and took treatment for 10 days. The appellant suffered two fractures and two simple injuries. Therefore, this Court is inclined to grant Rs.15,000/- each for two fractures and Rs.5,000/- each for two simple injuries, total Rs.40,000/- to the appellant, holding that the respondents are jointly and severally liable to pay the same.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed setting aside the Order and Decree of the Tribunal dated 24-10-2005 in O.P.No.937 of 2002, and the appellant is entitled for compensation of Rs.40,000/-, with interest at the rate

of 7.5% per annum from the date of filing claim petition, till the date of realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 23.10.2019
TJMR

