

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1486 OF 2006

JUDGMENT:

This appeal is filed by the appellant-petitioner aggrieved by the order and decree, dated 07.02.2006, passed in O.P.No.700 of 2004 by the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Nalgonda at Miryalguda. (for short, 'the Tribunal').

2. The brief facts of the case are that on 03.04.2004 the appellant/petitioner boarded an auto bearing No.AP-24-U-921 in order to go to Miryalguda Town from Peddadevulapally Village and when the said auto reached the outskirts of Peddadevulapally village, at about 10:00 AM, the driver of the said auto drove the vehicle in a rash and negligent manner at a high speed and lost the control on the steering, as a result of which, the auto turned turtle and the appellant/petitioner fell down from the auto and sustained fracture of left tibia (both bones) and abrasion of left tibia (both bones) and abrasion on left knee. The said accident was occurred due to rash and negligent driving of driver of the said auto. A case in Crime No.25 of 2004 was registered under Section 337 I.P.C against the driver of auto. Prior to the accident, the appellant/petitioner was hale and healthy, doing Cashier in petrol bunk and used to earn Rs.3,000/- per month. Due to the accident, he incurred huge amount and he lost his earning capacity. Thus, under all counts, the appellant/petitioner is claiming compensation of Rs.1,00,000/- against respondent Nos.1 and 2 herein.

3. Respondent No.1 remained *ex parte*. The 2nd respondent filed counter denying the allegations made in the petition. It is stated that the 2nd respondent is not aware of the criminal proceedings. It is stated that the accident is not reported by the insured, in collusion with the appellant/petitioner with a view to cause loss to the respondent company and as such the 2nd respondent company is not liable to pay compensation to the appellant/petitioner. It is further stated that the compensation claimed by the petitioner is excessive and ultimately prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident had occurred due to rash and negligent driving of the driver of the auto and awarded total compensation of Rs.32,000/- under various heads payable by respondent Nos.1 and 2 jointly and severally.

5. Heard the learned counsel for the appellant/petitioner and learned Standing Counsel for the 2nd respondent-Insurance Company.

6. The appellant/petitioner himself examined as P.W.2 and filed Ex.A.7-certified copy of wound certificate issued by the Government Area Hospital, Miryalguda, which shows that the appellant/petitioner suffered grievous injury on his left leg below knee and a rods have been inserted. Admittedly, it is a surgical sutured injury and again implanted rods needs to be removed. Since the appellant/petitioner sustained fracture injuries, the amount of Rs.10,000/- granted by the Tribunal is on lower side. Therefore, this Court feels that it would be just and proper if

Rs.10,000/- towards additional fracture injury and Rs.10,000/- towards additional future medial necessity for removal of the rods, awarded to the appellant/petitioner to meet the ends of justice. Hence, the total compensation comes to Rs.52,000/- (Rs.32,000/- + Rs.10,000/- + Rs.10,000) .

7. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.32,000/- to Rs.52,000/- payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellant/petitioner is permitted to withdraw the entire amount. Miscellaneous petitions pending, if any, shall stand closed. No costs.

28th November, 2019

T.AMARNATH GOUD, J

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Date:28.11.2019

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