

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2115 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the order and decree dated 29.06.2006 passed in O.P.No.1239 of 2003 by the I Additional Metropolitan Sessions Judge, Hyderabad (for short, the Court below).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that on 02.03.2003 at about 11.00 p.m., near Moodethula Tanda, Hamlet of Kondapaka, when the petitioner along with Bhukya Devula and his son Shivarathri Praveen and his wife Seethamma left from Moodethula Thanda and proceeding towards Neckonda on foot on the left side of the road, one Government vehicle jeep bearing No.APO-8212 driven by its driver in a rash and negligent manner dashed the petitioner and another person Devula from behind thereby the petitioner received fracture injuries on his left leg and other injuries all over the body. After the accident, the petitioner was shifted to MGM Hospital for treatment. Thereafter, the petitioner was shifted to Sai Krishna Super Speciality Neuro Hospital, Hyderabad, for better treatment. The accident occurred due to the rash and negligent driving of the driver of the jeep. The petitioner

submits that he is earning about Rs.5,000/- per month by doing earth work and he is also owner of the crane. Hence, the petitioner filed the claim petition claiming compensation of Rs.2,00,000/-, payable by respondents 1 to 4.

4. Before the Court below, the respondents 1 & 2 filed counter by adopting the counter filed on behalf of the 3rd respondent, remained *ex parte*. The contention of respondents 3 & 4 are one and the same. The 3rd respondent resisted the petition by filing counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and R.W.1 and documentary evidence of Exs.A-1 to A-25 & Exs.B-1 to B-3, the Court below came to the conclusion that the 4th respondent, who is examined as R.W.1, was responsible for causing the accident, as he drove the crime vehicle at the material point of time in a rash and negligent manner, resulting which the petitioner and other person sustained injuries in the accident and awarded total compensation of Rs.79,034/- and rounded off the same to Rs.79,100/- i.e., Rs.36,534/- towards medical expenses, Rs.15,000/- towards pain and suffering, Rs.7,500/- towards loss of earnings during treatment subsequent thereof and Rs.20,000/- towards loss of future income, with interest @ 7.5% per annum from the date of petition till the date of payment,

payable by respondents 1 to 3. Dissatisfied with the quantum of compensation, the appellant/claimant filed the present appeal seeking enhancement of the same.

6. Heard Sri A.Sameer Kumar, learned counsel for the appellant and learned Government Pleader for Arbitration appearing for the respondents. Perused the material available on record.

7. During the course of arguments, Sri A.Sameer Kumar, learned counsel for the appellant, placed on record certain estimations submitted by the doctor, who treated the appellant, indicating that for future surgery, an amount of Rs.85,000/- is required.

8. Since the same cannot be accepted at the level of appeal by this Court as either of the documents need to be examined, without expressing any opinion on the merits of the case, this Court feels that it would be just and appropriate to remand the matter back to the Court below giving a liberty to the petitioner to place the material evidence and after due examination of witnesses and the evidence, both oral and documentary, the Court below shall pass appropriate orders.

9. Accordingly, the appeal is allowed setting aside the order and decree dated 29.06.2006 in O.P.No.1239 of 2003 passed by the Court below and remanding the matter to the

Court below for fresh consideration and to dispose of the said O.P. on merits, as expeditiously as possible, after giving reasonable opportunity to both sides. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 21st November, 2019

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