

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.4689 OF 2004

JUDGMENT:

This appeal is preferred by the appellant/claimant questioning the order of the Motor Accident Claims Tribunal (I Additional District Judge), at Nizamabad (for short, the Tribunal) in O.P.No.995 of 1998 dated 20.08.2004.

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 the petitioner is driver of auto rickshaw bearing No.AP-1-T-519. On 25.07.1998, he was going from Idgah towards M.M.Court, Nirmal, and at about 5.00 p.m., when the petitioner reached in front of house of one Mamda Rajagoud, another auto rickshaw bearing No.AP-1-t-2784 being driven by its driver in a rash and negligent manner at high speed came from the opposite direction and dashed against the auto rickshaw of the petitioner bearing No.AP-1-T-519 due to which the auto of the petitioner was completely damaged and the petitioner received fractures to his right leg, right lower hip and neck and also received injuries on head, skull, left hand, face and other parts of the body. The petitioner was admitted in Government Hospital, Nirmal, and thereafter he was shifted to Osmania General Hospital, Hyderabad, and his right leg was operated and rod was inserted. The accident occurred on account of rash and negligent driving of the driver

of the offending auto. Hence, the petitioner/claimant filed the present claim petition claiming a compensation of Rs.2,50,000/- payable by respondents 1 & 2, who are owner and insurer of the offending auto rickshaw.

4. In the claim petition, the 1st respondent remained *ex parte*. The 2nd respondent filed a counter denying the allegations and contended that the amount claimed by the claimant is highly excessive and that it is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending auto rickshaw resulting in injuries to the petitioner and that petitioner also contributed equally by driving his auto without having any valid driving licence and decided the issue partly in favour of the petitioner and awarded compensation amount of Rs.14,500/- with interest @ 9% per annum from the date of petition till realization payable by respondents 1 & 2. Aggrieved by the said order, the appellant/petitioner/claimant filed the present appeal.

6. Heard.

7. A perusal of the order reveals that the Tribunal passed a well considered order by taking into consideration all the aspects and as against the claim of Rs.2,50,000/-, the Tribunal actually awarded total compensation of Rs.29,000/- under various heads

i.e., Rs.20,000/- towards head injury, Rs.5,000/- towards pain and suffering, Rs.1,000/- towards medical and incidental expenses and Rs.3,000/- towards loss of earnings, but deducted 50% of the compensation to be awarded since the petitioner was driving the auto without having any driving licence and the petitioner also contributed to some extent for the accident and the petitioner did not make owner or insurer of the auto bearing No.AP-1-T-519 as parties to the claim petition and in such circumstances, the percent of the claim was scaled down. The Tribunal has well considered the medical expenses, head injury, pain and suffering and loss of earnings and also loss of income and accordingly awarded the said amount. Therefore, I see no reason to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed.
No order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 23rd September, 2019

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