

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

M.A.C.M.A.No.2331 OF 2005

JUDGMENT:

Dissatisfied with the award of Rs.10,000/- as compensation by order and decree, dated 30-07-2003 passed in M.V.O.P.No.980 of 2000 by the Chairman, Principal Motor Accidents Claims Tribunal – cum – Principal District Court, Warangal, as against the claim of Rs.1,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the damages to the Maruthi Car bearing No.AP 96493 belonging to the 1st petitioner, the present appeal, under Section 173 of the Act, is preferred by petitioners seeking enhancement of the compensation.

2. The appellants herein are the petitioners-claimants, while respondents are the respondents, in the O.P. before the Tribunal.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the O.P. before the Tribunal.

4. Learned counsel for the petitioners submits that though surveyor assessed the damage of the subject vehicle, without considering the same, only an amount of

Rs.10,000/- was granted by the Tribunal and out of the said amount, liability of Rs.6,000/-was fixed on the respondent-Insurance company, which is erroneous.

5. On the other hand, learned counsel for the respondent-Insurance Company submits that no notice was issued to the respondent-Insurance Company before assessing the damages by the Surveyor and no documents are filed to show that what is the amount incurred for repairing the subject vehicle.

6. The case of the petitioners before the Tribunal is that on 30-03-2000 when the 1st petitioner was going in the Maruthi Car from Narsampet to Warangal, the car was stopped at Dharmaram cross-road. In the meanwhile, the Tata Sumo bearing No.AP 9 Q 968 came in a rash and negligent manner and dashed the car. As a result of which, the back portion of the car has been completely damaged. After giving notice to the Insurance company, the damages were assessed at Rs.1,50,000/-. The 1st respondent is the driver, the 2nd respondent is the owner and the 3rd respondent is the Insurance Company and they are jointly and severally liable to pay the compensation.

7. The respondents 1 and 2 remained *exparte* and the 3rd respondent filed counter putting the petitioner to strict proof of the rashness and negligence attributed to the driver of Tata Sumo and its involvement in the accident. The claim of petitioners is excessive and untenable. Therefore, prayed to dismiss the petition.

8. Basing on the above pleadings, the following issues were framed for trial:

1. Whether the accident is due to rash and negligent driving of the driver of the vehicle?
2. Whether the petitioner is entitled to claim damages as prayed in the petition?
3. To what relief?

9. On behalf of petitioners, PWs 1 and 2 were examined and marked Exs.A-1 to A-9.

10. In this case it is to be seen that while awarding the compensation for fixing the liability of the 3rd respondent, the Tribunal found that no notice was issued to the respondent-Insurance Company though survey was conducted one week after the accident. The Tribunal also found that the petitioners have not examined the person, who has repaired the subject vehicle. No panchanama of scene of offence was conducted by the police and the photos filed were taken at shed rather than at the scene

of offence. The Tribunal also found that no document was filed by the petitioners to show about the purchase of spare parts and spending of money for the repairs of the subject vehicle. The Tribunal on appreciation of the evidence on record and by taking into account the damage of the subject vehicle, granted an amount of Rs.10,000/- towards compensation.

11. In view of the above facts and circumstances, I do not see any reason to differ from the award of the Tribunal and find no merit in the appeal.

12. Accordingly, the appeal is dismissed. Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

A. RAJASHEKER REDDY, J

21-02-2019
Nvl