

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.1312 OF 2006

JUDGMENT:

This appeal is filed by the claimant against the judgment and decree, dated 15.09.2005 passed in O.P.No.1724 of 2001 by the Motor Accidents Claims Tribunal-cum-III Additional District Judge (FTC), Nizamabad (for short 'the Tribunal).

2. For the sake of convenience, the parties herein are referred to as arrayed before the tribunal.

3. It is the case of the petitioner that on 29.03.2001 at 10.45 p.m, when he along with others were travelling in a jeep bearing No.MTJ 7044 from Nandipet to Nizamabad and when the said jeep reached a bridge in Chikli Village limits, its driver drove it in a rash and negligent manner at high speed and dashed to bridge, for which the jeep turned turtle and the petitioner sustained fracture of both the collar bones, hand bones and other multiple and grievous injuries over the body and claimed compensation of Rs.1,00,000/-.

4. Respondent No.2 filed written statement denying the claim petition and hence, prayed to dismiss the claim petition.

5. In order to prove the case of the claimant, himself examined as PW.1 and Dr L.Ramulu examined as PW.2 and marked Exs.A1 to A.5 on his behalf. No oral or documentary evidence is adduced on behalf of the respondents in support of their contentions. Basing on the pleadings, oral and documentary evidence, the tribunal framed the following issues:

- 1) Whether the accident has taken place due to rash and negligent driving of the driver of the vehicle bearing No.MTJ 7044 by its driver?
- 2) Whether the petitioner is entitled for compensation? If so, to what just amount and against whom?
- 3) To what relief?

6. On considering the oral and documentary evidence, the tribunal granted compensation of Rs.17,000/- that the petitioner sustained fracture of both clavicles, cost of treatment, transport charges and pain and suffering and that the respondents are liable to pay the compensation amount.

7. Learned counsel appearing for the claimant contended that the tribunal granted meagre compensation though PWs.1 and 2 were examined and filed Exs.A1 to A5 and hence, prayed to grant just and proper compensation.

8. Learned standing counsel for the insurance company contended that the decree and judgment passed by the tribunal is well considered and that the accident occurred due to rash and negligent driving of the driver of the jeep and that the driver of the jeep allowed more passengers and could not control the jeep and that as the claimant is gratuitous passenger, he is not entitled for any relief and that if any compensation is granted, direct the insurance company to pay and recovery.

9. It is the case of injuries. There is no dispute with regard to the manner of accident and involvement of the vehicle. In order to prove the injuries sustained by the petitioner, he examined PW.2-Dr L.Ramulu and filed Ex.A.4-disability certificate and Ex.A.3 medical certificate. As per evidence of PW.2 – doctor and Ex.A.3 – medical certificate, the petitioner sustained fracture of both clavicles, which is grievous in nature.

Therefore, the petitioner is entitled for Rs.30,000/- towards fracture of both clavicles, Rs.5,000/- towards treatment and extra nourishment and Rs.5,000/- towards pain and suffering.. Thus, the petitioner is entitled for compensation of Rs.40,000/- with interest @ 7.5% per annum from the date of petition till the date of realisation. The injured claimant is entitled to withdraw the compensation amount soon after the deposit is made. Since the driver allowed more passenger there is violation of policy conditions. Therefore, the insurance company first pay the compensation amount within three months from the date of this judgment and recovery the same from the owner of the crime vehicle.

10. In view of the above, M.A.C.M.A. is partly allowed. There shall be no order as to costs.

Miscellaneous petitions, if any pending in these appeals shall stands closed.

T.AMARNATH GOUD,J

Date 26.09.2019
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