

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.842 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 23.02.2006 passed in O.P.No.23 of 2005 by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-III Additional District Judge, at Karimnagar (for short, the Tribunal).

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 aged about 28 years and he is working as Hamali in Civil Supplies Godown at Karimnagar and used to earn Rs.6,000/- per month. On 27.04.2004, the petitioner was proceeding to his Village Vallamphad on his cycle. While so, at about 8.30 p.m., when he reached the outskirts of Vallamphad, the 1st respondent drove the TVS victor motor cycle bearing No.AP-15-N-332 in a rash and negligent manner with high speed and dashed to the cycle of the petitioner, as a result the petitioner fell down and sustained fracture of mandible, fracture of right knee, he lost two lower teeth, five upper teeth are dislocated and also sustained injury of lower limb on right ankle. Immediately, after the accident, he was taken to the Government Hospital, Karimnagar, from there he was shifted to First Med Hospital, Karimnagar, there he was treated as inpatient and wires are

fixed on upper teeth and operation was done on right knee and rods are inserted. He spent Rs.50,000/- for his treatment and medicines. The petitioner suffered from pain and suffering and also permanent disability. He is unable to walk because of fracture to his knee. His face is disfigured and he is unable to chew any hard stuff. He took treatment and bed rest for a period of ten months thereby he lost his earnings. Now he is unable to work as Hamali. The accident occurred due to the rash and negligent driving of the two wheeler by the 1st respondent, the vehicle belongs to the 2nd respondent and insured under 3rd respondent. Hence, the petitioner claimed a total compensation of Rs.2,00,000/- i.e., Rs.30,000/- towards loss of earnings, Rs.5,000/- towards transportation, Rs.5,000/- towards extra nourishment, Rs.50,000/- towards treatment and medicines, Rs.10,000/- towards pain and suffering and Rs.1,00,000/- towards permanent disability, payable by respondents 1 to 3, who are jointly and severally liable to pay the compensation to the petitioner.

4. Before the Tribunal, all the respondents filed separate written statements 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 and documentary evidence on record, the Tribunal came to the conclusion that in view of the findings on issue No.1 that the petitioner failed to prove that he sustained injuries with the two wheeler motor cycle bearing

No.AP 15 N332, he is not entitled to any compensation and accordingly dismissed the claim petition. Aggrieved by the same, the present appeal is filed by the petitioner/claimant.

6. Heard.

7. Admittedly, with regard to Issue No.1 as to whether the accident took place due to the rash and negligent driving of the vehicle i.e., TVS Victor bearing No.AP-15-N-332 by its driver, as per Ex.A-2-final report and as per the evidence of P.W.3-Dr.Ch.Shivaramakrishna, who treated the petitioner, the accident cannot be disbelieved and upon the strength of the contents of the charge sheet, the accused admitted his guilt and thereafter he was produced before the trial Court for further legal action. In view of the above observation, this Court holds that the accident has taken place and the issue No.1 is accordingly answered in favour of the petitioner.

8. Insofar as the Issue No.2 as to whether the petitioner is entitled to compensation, if so, to what extent and from whom, is concerned, as per Ex.A-7-Medical Bills, which are raised during the hospitalization period of the petitioner, and on perusal of Ex.A-3-Certified copy of Wound Certificate issued by P.W.3-Dr.Shivaramakrishna & Ex.A-5-Discharge summary from First Med Hospital, Karimnagar, and on the strength of the evidence of P.W.3, this Court feels that it would be just and appropriate to award an amount of Rs.25,000/- towards Medical Bills, Rs.15,000/- towards one grievous injury i.e., damage to the jaw and Rs.10,000/- (Rs.5,000/- each) towards two simple

injuries to the appellant/claimant. Therefore, the total compensation under various heads comes as under:

Sl.No.	Name of Head	Awarded by this Court
01.	Medical Bills	Rs.25,000/-
02.	One grievous injury	Rs.15,000/-
03.	Two simple injuries	Rs.10,000/-
TOTAL		Rs.50,000/-

9. With regard to the fastening of the liability is concerned, since the offending vehicle is covered by the insurance policy, the liability is fastened on the 3rd respondent-insurance company.

10. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed setting aside the order and decree dated 23.02.2005 in O.P.No.23 of 2005 passed by the Tribunal and compensation amount of Rs.50,000/- with interest @ 7.5% per annum from the date of petition till realization is awarded to the appellant, payable by the 3rd respondent/insurance company. The 3rd respondent/insurance company is directed to deposit the compensation 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 is permitted to withdraw the entire amount. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

T.AMARNATH GOUD, J

Date: 20th September, 2019
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