

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

MACMA.No.1207 of 2010

ORDER:

This appeal is filed by the appellant-Insurance Corporation against the award and decree passed in OP.No.2302 of 2006 on the file of Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad, wherein and whereby the Tribunal awarded a sum of Rs.5,50,000/- out of claim of Rs.8.00 lakhs for the injuries sustained by the respondent No.1 in the road accident.

The appellant herein, is the National Insurance Company Limited who is the 2nd respondent and respondents 1 and 2 were petitioner and respondent No.1, the owner of jeep bearing No.AP 10 AF 2425, respectively in the original petition.

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

Learned counsel for the appellant-Insurance Company submits that there is no negligence on the part of the driver of vehicle and that compensation granted by the Tribunal is excessive. He also submits that the Tribunal has granted Rs.1,50,000/- though the medical

bills were produced by the petitioner for Rs.29,000/- only.

Heard learned counsel for the respondent No.2-claimant, who submits that the Tribunal has considered the issue in proper perspective and granted adequate compensation.

The case of the petitioner/claimant before the Tribunal is that on 16-07-2006 at about 10 pm opposite to Palale Tips Hotel, Karkhana while he was proceeding on a motor cycle, the driver of jeep bearing No.AP 10 AF 2425 drove it in a rash and negligently and it dashed the motor cycle. As a result of which, the petitioner sustained grievous injuries. The petitioner spent huge amount towards medical expenses. It is also the case of the petitioner that petitioner was aged about 23 years and private employee and earning Rs.2,500/- per month. As such, the petitioner sought for compensation of Rs.8.00 lakhs.

The 1st respondent is the owner of the crime vehicle filed counter resisting the claim denying his liability. The 2nd respondent filed counter contending *inter alia* that the petitioner has to prove age, income and insurance besides medical expenses and that the accident occurred due to negligence of the petitioner and

there was no rash and negligent driving on the part of the driver of crime vehicle. As such, the 2nd respondent is not liable to pay the compensation and that the compensation claimed is also excessive.

Basing on the above pleadings, the following issues are framed:

1. Whether the petitioner sustained injuries in the accident on 16-07-2006 due to rash and negligent driving of the driver of jeep bearing No.AP 10 AF 2425?
2. Whether the petitioner is entitled to any compensation? If so, from whom?
3. To what relief?

The petitioner-claimant examined PWs 1 to 3 and got marked Exs A1 to A11 besides Exs X1 and X2 on behalf of the 2nd respondent, RW.1 is examined and Ex.B.1 and Ex.X.3 are marked. Basing on the evidence of Pws.1 to 3 and Exs.A1 to A11 marked through them, the Tribunal came to conclusion that the driver of jeep in question drove the vehicle in a rash and negligent manner and dashed against the motor cycle of the petitioner. As a result, the petitioner sustained grievous injuries. The Tribunal relied on Ex.A.1, which is certified copy of F.I.R., Ex.A.2 is certified copy of charge sheet and Ex.A.4 certified copy of M.L.C. and it also found that when PW.1 was examined, nothing worthwhile was elicited to

discredit his testimony. As such, there is no reason for disbelieving the said finding of fact. Regarding the quantum of compensation is concerned, the Tribunal found that the 1st respondent-injured sustained Grade III C-compound fracture of right leg and head injury and fracture of both wrist joint and that above knee amputation of right lower limb was done. In view of the same, the Tribunal by relying on the judgment of **Bandaru Azad Chandra Sekhar v. K.Venkata Ramana** (2004 (2) An.W.R. P.276) granted an amount of Rs.3.00 lakhs to the grievous injuries and for amputation of right leg above knee, besides permanent partial disability suffered by the petitioner. When coming to the medical expenses, PW.1 produced Ex.A.10 medical bills for Rs.29,000/- and also produced Ex.A.8 original estimation for artificial leg for Rs.2,00,000/- and odd. The Tribunal also found that the leg was amputated above knee besides other fractures and there is permanent disability. In the said circumstances, the Tribunal has granted an amount of Rs.1,50,000/- towards medical expenses by keeping in view the nature of injury suffered by the petitioner and for amputation of right leg above knee level, which cannot be faulted. In addition to the said amount, the Tribunal has also

granted an amount of Rs.1,00,000/- under the head of pain and suffering and the same is maintained. Therefore, this Court is of the opinion that the amount awarded by the Tribunal is just compensation. Since the rate of interest awarded by the Tribunal at 7.5% per annum is in accordance with the rate of interest awarded by the Supreme Court in **Rajesh v. Rajbir**¹, the same rate of interest is maintained.

In view of the above and keeping in view of law laid down in several judgments, this Court is of the opinion that the compensation granted by the Tribunal is not on higher side. As such, no interference is called for.

Accordingly, the appeal is dismissed. As a sequel to the disposal of this appeal, miscellaneous applications, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

13-02-2019

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¹ 2013ACJ 1403=2013(4) ALT 35



