

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1293 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 19.10.2005 passed in O.P.No.179 of 2002 by the Chairman, Motor Accidents Claims Tribunal (V Additional District Judge), at Nizamabad (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 the resident of Mendora Village of Nizamabad District. He is an agriculturist, businessman and labour by profession and he was earning Rs.10,000/- per month from the above said avocation at the time of accident. On 09.12.2001, the petitioner along with other passengers were traveling in the crime auto bearing No.AP 25T 9601 from Mupkal to Mendora Village. On the way, when the above said auto reached near Gollodugutta of Mendora Village sivar, the driver of the said auto has driven it in a rash and negligent manner and lost control over the auto. As such, he first dashed to one Syed Hakeem and thereafter the auto was turtled. As the result of the said accident, the petitioner sustained injuries i.e., fracture to scapula right side, grievous abrasion to right side shoulder, head injury, multiple and grievous injuries on various parts of the body. After the

accident, he was treated by Deputy Medical Officer of Government Hospital, Nizamabad. So far he has incurred Rs.40,000/- towards his medical treatment. Due to the accident and injuries sustained therein, he is unable to attend regular duty and got permanent disability. Hence, the petitioner filed the claim petition claiming compensation of Rs.1,00,000/-, payable by both the respondents, being the owner and insurer of the crime auto.

4 Before the Tribunal, the 1st respondent remained *ex parte*. Respondent No.2 filed written statement 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 evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-7, the Tribunal came to the conclusion that the petitioner failed to prove his case with regard to number of injuries, nature of injuries, alleged treatment, expenditure incurred therefor as well as alleged disability, loss of income therefrom and opined that the petitioner is not entitled for any compensation from anybody, muchless from both the respondents and dismissed the claim petition. Aggrieved by the said order, the appellant/claimant filed the present appeal, seeking compensation.

6. In spite of service of notice, there is no representation for the 2nd respondent/insurance company on the last occasion and even when the matter is listed today, there is no representation

for the 2nd respondent/insurance company. Since this matter pertains to the year 2006 and the accident has taken place on 09.12.2001, dodging the matter on one pretext or the other is of no purpose. Hence, the matter is decided on the strength of the evidence and material available on record and after hearing Sri K.Sarala Mahender Reddy, learned counsel appearing for the appellant/claimant and perusing the material record.

7. As seen from Ex.A-2-charge sheet, this Court is of the considered view that accident has taken place and as per Ex.A-5-injury certificate, there are one grievous injury i.e., abrasion 4x2 cms over the right shoulder and one simple injury i.e., fracture of right scapula.

9. In view of the above, this Court feels that awarding compensation of Rs.15,000/- for the grievous injury and Rs.1,000/- for the simple injury would be meeting the ends of justice. Therefore, the total compensation comes to Rs.16,000/- (Rs.15,000/- + Rs.1,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed by awarding compensation of Rs.16,000/-, payable by both the respondents jointly and severally. The compensation amount shall carry interest @ 7.5% per annum from the date of petition till the date of realization. The respondents are 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 closed.

T.AMARNATH GOUD, J

Date: 29th October, 2019

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