

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1431 OF 2006

JUDGMENT:

This appeal is preferred by the appellant/Insurance Company questioning the Award of the Motor Vehicle Accident Claims Tribunal-cum-II Additional District Judge, Karimnagar at Jagtial (for short, the Tribunal) in O.P.No.74 of 2005, dated 03.03.2006.

2. The brief facts of the case are that on 23.11.2004, while the claimant (respondent No.1 herein) was going on a cycle after attending his works, and when he reached near Municipal Park at about 7.00 pm., a tractor bearing No.AP15V 6161/6162 came in a rash and negligent manner at high speed and dashed against the cycle of the claimant, due to which, the claimant fell down and sustained injury on his right eyebrow. He filed aforesaid MVOP against the driver of the tractor (respondent No.2 herein), owner of the tractor (respondent No.3 herein) and insurer of the tractor (appellant herein), claiming compensation of Rs.2,50,000/- for the injuries sustained by him.

3. Before the Tribunal, driver and owner of the tractor filed a common counter stating that there was contributory negligence on the part of the claimant in causing the accident and sought to dismiss the claim petition. The appellant-Insurance Company filed counter denying the allegations and contended that the amount claimed by the claimants is highly excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the tractor and awarded total compensation of Rs.2,00,808/- under various heads, with interest at the rate of 7.5% per annum. Aggrieved by the said order, the appellant/Insurance Company filed the present appeal.

5. Heard.

6. It is seen from the record that in the accident, the claimant sustained injury on his right eye. As per Ex.A.5-injury certificate issued by Dr.I.Prakash Kumar, Civil Assistant Surgeon, Government Area Hospital, Jagtial, the claimant suffered a simple injury of lacerated wound of ½" X ½" on the right eyebrow. As per Ex.A.12-disability certificate issued P.W.2-the Civil Assistant Surgeon and Eye Specialist in the District Headquarters Hospital, Karimnagar, the claimant had suffered 30% disability in his right eye. As per Ex.A.11, opinion given by P.W.3-an Eye Specialist practicing at Jagtial, the claimant suffered 95% of loss of vision in his right eye. Basing on the above evidence, the Tribunal considered the disability of the claimant at 30% and granted a sum of Rs.1,37,808/- towards pecuniary damages and Rs.3,000/- towards transport charges and Rs.5,000/- towards medical expenses. In addition to the same, the Tribunal granted Rs.55,000/- towards non-pecuniary damages.

7. The Tribunal, without there being any oral or documentary evidence, granted non-pecuniary damages of Rs.55,000/- and hence, this Court is of the opinion that the same is excessive in the facts and circumstances of the case. Therefore, the non-pecuniary damages of Rs.55,000/- granted by the Tribunal is set aside.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed reducing the compensation granted by the Tribunal from Rs.2,00,808/- to Rs.1,45,808/-. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

Date: 05-11-2019
TJMR

T.AMARNATH GOUD, J

