

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.2233 of 2006

JUDGMENT:

This appeal is filed by the United India Insurance Company Limited under Section 173 of the Motor Vehicles Act aggrieved by the orders passed by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Karimnagar at Jagtial (for short 'the Tribunal'), in O.P.No.32 of 2005 dated 26.06.2006.

2. The Tribunal after framing the issues and examining the witnesses, allowed in part the claim of the claimant and awarded an amount of Rs.3,18,000/- against the claim of Rs.7,00,000/-.

3. Learned counsel for the appellant-insurance company contended that the Tribunal ought to have fixed the liability on the claimant also and sought to exonerate him from the liability by allowing the appeal.

4. There is no representation on behalf of the 1st respondent-claimant.

5. As seen from the material on record, PW.2-Doctor, who is on the panel of Medical Board of Nalgonda District has issued Ex.A13-disability certificate stating that the claimant-injured has suffered with 40% disability in view of the injuries sustained and the same has been marked as exhibit and he has deposed before the Court. Since he is a member of the Medical Board, his evidence cannot be denied and the same is rightly taken on record by the Tribunal.

6. So far as the age of the claimant is concerned, it is stated in the petition as 34 years and the Tribunal has considered

between slab of 35 to 40 years. There is no material placed before the Tribunal to come to a conclusion that the age of the claimant would be around 35 to 40 years. Since the age of the claimant is considered as 34 years by this Court, the appropriate multiplier is '16' which was rightly taken by the Tribunal.

7. As the original petition was filed under Section 163-A of the Act, cross objections of the other side cannot be considered and in so far as the contributory negligence, there is no evidence placed before the Tribunal by the insurance company to give a finding about the contributory negligence and in the absence of which, no adverse orders can be passed on the issue of contributory negligence in this appeal.

8. Accordingly, this Appeal is dismissed confirming the order of the Tribunal. No costs.

Miscellaneous petitions if any shall stand closed.

T.AMARNATH GOUD, J

Date: 06.11.2019
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