

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1667 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 02.05.2011 passed in M.A.T.O.P.No.1222 of 2006 by the Motor Accidents Claims Tribunal-cum-IV Additional District Judge (F.T.C.), at Khammam (for short, the Tribunal).

2. The brief facts of the case are that the appellant is resident of Khammam. On 05.12.2005 at 4.00 p.m., while the appellant returned from Century School, accompanying with her grand daughter Kaveti Kavya, after completion of the school hours, near the Century School, the auto bearing No.AP 20V 7368 driven by its driver in a rash and negligent manner and dashed against the appellant from back side, as a result, the appellant sustained injuries on left leg and the appellant's grand daughter also sustained injuries. Soon after the accident, the appellant got admitted in Dr.Hanuman Hospital, Khammam and thereafter shifted to Dr.Kolikonda Mahendra Kumar, Surya Orthopaedic Hospital, Khammam, necessary x-rays were taken and found fractures on three parts below knee above ankle of left leg, multiple injuries all over the body and treated as inpatient and conducted surgery by inserting the steel rod, muscle part of the left leg was completely crushed and bones were exposed, the appellant also sustained internal injury on back side, the stretchers and plasters were applied over the other injured parts, the doctors conducted the skin grafting on

left leg and also conducted operation on left leg, the appellant was advised to take treatment continuously for a period of four months as inpatient. Since the appellant sustained fracture injuries to the left leg and crush injuries on left leg, she is not in a position to move from the bed and she is unable to attend for her normal duties, the appellant is still experiencing the pain and suffering. The fractured parts of left leg were not healed and deformity was caused on injured part of the left leg and the appellant spent Rs.50,000/- towards medical and other expenses and the appellant still undergoing treatment. The police of Traffic Police Station, Khammam, registered a case in Crime No.204 of 2005, under Section 338 of IPC against the driver of the auto. The appellant was hale, healthy and energetic prior to the accident. The appellant was a vegetable vendor, used to earn Rs.200/- per day and used to contribute the same towards her family maintenance. Because of the act of driver of the auto, the appellant received grievous injuries and became permanently disabled. She cannot perform her normal duties and so members of her family were put to much mental agony. As such, in all the appellant is claiming compensation of Rs.1,50,000/- towards general and special damages and that respondents 1 & 2 being the owner and insurer of the crime vehicle on the date of accident, they are jointly and severally liable to pay compensation to the appellant.

3. Before the Tribunal, respondents 1 & 2 filed separate counters denying the averments of the claim petition and

contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record and in view of the finding given in para 13 of the order, the Tribunal dismissed the claim petition. Aggrieved by the same, the appellant filed the present appeal, seeking to grant compensation.

5. In spite of notice served upon the 3rd respondent, there is no representation. Since the matter pertains to the year 2011, this Court feels that it would be appropriate to dispose of the appeal by not waiting for a longer period. Hence, proceeded with the arguments.

6. Heard Sri Kadaru Prabhakar Rao, learned counsel for the appellant/claimant and Sri S.V.R.Subramanyam, learned Standing Counsel for the 2nd respondent/insurance company.

7. On perusal of the impugned order, at para 13, the Tribunal observed that Ex.B-3, which is Form No.24B Register of the crime vehicle, is marked through R.W.2, which shows that G.Ananda Rao was owner of the crime vehicle and in the cross-examination, R.W.2 deposed that "it is true that Ex.B.3 was issued by our office. Ex.B.3 is the registration extract of the auto bearing No. AP 20 V 7368. As per Ex.B.3 the owner of the auto bearing No. AP 20 V 7368 was one G.Ananda Rao. The name of previous owner mentioned as Setti Venkateswarlu for the period from 12-2-2004 to 20-9-2005". Thus, Ex.B-3 shows

that at the time of the accident, owner of the crime vehicle was G.Ananda Rao, but not the 1st respondent and that no suggestion was given to R.W.2 by the Advocate of the claimant to say that as the 1st respondent was the owner of the crime vehicle at the time of the accident, as such the 1st respondent is not liable to pay any compensation to the appellant. The Tribunal further observed that as per Ex.B-2, driver of the crime vehicle was not having valid driving licence at the time of the accident, as such, there was violation of policy conditions, as such the 2nd respondent is not liable to pay compensation to the appellant and, accordingly, dismissed the claim petition.

8. On perusal of the record, it is observed that while the M.V.T.O.P.No.1222 of 2006 is pending, the offending vehicle was transferred from the 1st respondent to one Sri G.Ananda Rao and to that effect, IA.No.25 of 2009 was filed to implead him and the same was allowed on 01.04.2010. Subsequently, a neat copy was filed on 15.04.2010 showing G.Ananda Rao as 3rd respondent and another petition was filed on 30.05.2011 to review the order in the M.V.T.O.P.No.1222 of 2006, but the same was returned on 04.06.2011 with an endorsement that no amendment was carried out in the O.P. In the present appeal, Sri G.Ananda Rao, who is the owner of Auto bearing No.AP 20V 7368, is impleaded as 3rd respondent in the appeal *vide* order, dated 24.07.2018, in MACMAMP.No.6292 of 2013.

9. In view of the above and in the facts and circumstances of the case, this Court feels that it would be just and appropriate to grant the compensation under various heads as follows:

Sl.No.	Name of Head	Awarded by this Court
01.	Medical Bills	Rs.9,000/-
02.	Grievous Injury	Rs.25,000/-
03.	Simple Injury	Rs.3,000/-
04.	Future Surgery to remove Implant	Rs.15,000/-
05.	Loss of income (Rs.3,000/- x 2½ months)	Rs.7,500/-
06.	Attendant Loss of income (Rs.1,500/- x 2½ months)	Rs.3,000/-
07.	Future Medical expenses	Rs.10,000/-
08.	Pain and Suffering	Rs.10,000/-
09.	Extra Nourishment charges	Rs.5,000/-
10.	Transportation charges	Rs.1,000/-
TOTAL		Rs.88,500/-

10. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed by awarding an amount of Rs.88,500/- as compensation. The awarded amount shall carry interest @ 7.5% per annum. The 3rd respondent is directed to deposit the compensation amount along with interest within two months from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the entire amount. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 20th June, 2019

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