

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.880 OF 2006

JUDGMENT:

This appeal is preferred by the appellant/petitioner/claimant questioning the order of the Chairman, Motor Accidents Claims Tribunal (V Additional District Judge), at Nizamabad (for short, the Tribunal) in O.P.No.178 of 2002 dated 19.10.2005.

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. On 09.12.2001, the petitioner along with other passengers were traveling in the auto bearing No.AP-25-T-9601 from Mupkal to Mendora Village. On the way, when the auto reached near Gollodugutta of Mendora Village sivar, the driver of the 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. Thereafter, the auto turned turtle. As a result, the petitioner sustained fracture to left leg both bones, left knee, left foot, injury to head and multiple and grievous injuries on various parts of the body. After the accident, she was treated by Deputy Medical Officer of Government Hospital, Nizamabad. The petitioner is an agriculturist by profession and she was earning Rs.10,000/- per month from the above said avocation at the

time of the accident and due to the accident, she lost amenities of her future life as well as future income. Hence, the petitioner earlier claimed compensation of Rs.43,43,000/-, but later restricted the same to Rs.50,000/- payable by both the respondents jointly and severally.

4. In the claim petition, the 1st respondent remained *ex parte*. The 2nd respondent filed written statement denying the allegations and contended that the amount claimed by the claimant is highly excessive and that it is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident has not occurred due to the rash and negligent driving of the driver of the crime auto and the petitioner failed to prove her case with regard to number of injuries, nature of injuries, alleged treatment, expenditure incurred therefor as well as alleged disability, loss of income therefrom. The Tribunal came to an opinion 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/petitioner/claimant filed the present appeal.

6. Heard Sri K.Sarala Mahender Reddy, learned counsel appearing for the appellant and Sri P.Harinath Gupta, learned

standing counsel appearing for the 2nd respondent/insurance company. Perused the material on record.

7. Sri K. Sarala Mahender Reddy, learned counsel appearing for the appellant, submits that the Tribunal has not taken into consideration the injuries sustained by the appellant due to the accident and has erroneously dismissed the claim petition. Therefore, he prays to allow the appeal by awarding compensation to the appellant.

8. Sri P.Harinath Gupta, learned standing counsel for the 2nd respondent/insurance company, contended that the Tribunal passed a well considered order and needs no interference and it is not a fit case to grant compensation to the petitioner since the petitioner failed to prove her case with regard to number of injuries, nature of injuries, alleged treatment, expenditure incurred. He further submitted that the claimant lodged a complaint on 14.12.2001 i.e., after five days of the accident. Therefore, he prays to dismiss the appeal by confirming the order passed by the Tribunal.

9. Having regard to the facts and circumstances of the case and the submissions made by both the learned counsel and since the petitioner has sustained fracture injury to left leg both bones, left knee, left foot, injury to head and multiple and grievous injuries on various parts of the body, this Court feels that it would be just and appropriate to award compensation

amount of Rs.10,000/- towards pain & suffering and extra nourishment.

10. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed by setting aside the order passed by the Tribunal and a compensation amount of Rs.10,000/- with interest @ 7.5% per annum from the date of petition till realization is awarded to the appellant payable by both the respondents jointly and severally. 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.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 20th September, 2019

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