

HONOURABLE SRI JUSTICE T. AMARNATH GOUD

M.A. C.M.A. No.2361 OF 2011

JUDGMENT:

This Civil Miscellaneous Appeal is preferred by the Insurance Company challenging the award dated 23.04.2010 in O.P. No.355 of 2008 passed by the learned Chairman, Motor Accidents Claims Tribunal - cum - II Additional District and Sessions Judge (Fast Track Court), Sangareddy.

2. Heard Sri A. Ramakrishna Reddy, learned counsel for the appellant - Reliance General Insurance Company Limited, Somajiguda, Hyderabad, and Sri Palle Sri Harinath learned counsel for respondent No.1 - claimant, and Sri C.V. Bhaskar Reddy, learned counsel for respondent No.2 - owner of the lorry that involved in the accident, and perused the material on record.

3. It is evident from the material on record that neither owner of the lorry nor its insurer, who preferred this appeal, have not adduced any evidence and not entered into witness box to rebut the case of the claimant. The contention made by the learned counsel for the insurer that the charge sheet was filed under Section 3 read with Section 181 of the Motor Vehicles Act, 1988 stating that the driver, who drove the lorry involved in the accident, was not possessing driving licence, and, therefore, insurer has no liability to pay any compensation, cannot be accepted since the officials of the insurer

have not chosen to enter into witness box and to adduce evidence in support of their case.

4. The main ground on which the insurer preferred this appeal is as to fastening of liability for the accident. However, as the insurer has not chosen to enter into witness box to adduce evidence in support of their case rebutting the case of the claimant, this Court is of the view that at this stage, it is not open for them to improve their case in the present appeal.

5. Coming to compensation, the claim made by the claimant was for Rs.1,00,000/-. The Tribunal considering the fracture of both side ribs and presence of bilateral pneumonia as grievous injury, abrasions and lacerated injuries over the face, skull and chest as simple injuries, granted a sum of Rs.20,000/- towards grievous injury, Rs.2,000/- each to three simple injuries, totalling to Rs.6,000/-, Rs.6,000/- towards medical expenses, Rs.4,000/- towards extra-nourishment, Rs.4,000/- towards pain and suffering, Rs.1,000/- towards transportation and Rs.9,000/- towards loss of income at the rate of Rs.3,000/- per month for a period of three months as the claimant, who was a driver, could not carry his profession for the said period. Thus, the Tribunal considering the injuries suffered by the claimant, the treatment he has taken and the period during which he could not carry out his profession, rightly granted a just and reasonable sum of Rs.50,000/- towards compensation as against Rs.1,00,000/-.

6. For the aforesaid reasons, this Court has not found any ground to reverse the findings of the Tribunal. Thus, there are no merits in this appeal.

7. Therefore, the Civil Miscellaneous Appeal is dismissed.
No order as to costs.

As a sequel thereto, Miscellaneous Applications, if any pending, in the appeal stand closed.

July 18, 2019.

PV

T. AMARNATH GOUD, J

