

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.491 of 2013

JUDGMENT:

This appeal is preferred by the appellant/insurer questioning the order of the Motor Accident Claims Tribunal, Nizamabad (for short, the Tribunal) in O.P.No.1056 of 2001 dated 22-06-2006.

2. Brief facts of the case are that on 17-03-2000 while the claimant was riding his scooter bearing No.AP-25-A-5314 and when he reached Chinnapur turning, a lorry bearing No.AP-T-7454 came from opposite direction in a rash and negligent manner hit his scooter, due to which, he sustained fracture to his right hand and received grievous injuries to his head and all over the body. He was admitted in hospital immediately and he incurred an expenditure of Rs.3.00 lakhs for the treatment. Hence, he filed the claim petition seeking compensation of Rs.8,00,000/- for the injuries sustained by him against the 2nd respondent and appellant, who are the owner and insurer of the crime vehicle.

3. In the claim petition, the appellant-insurer filed a counter 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.

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 crime vehicle and awarded total compensation of Rs.4.00 lakhs under various heads, with interest at the rate of 9% per annum. Aggrieved by the said order, the appellant/insurer filed the present appeal.

5. Heard.

6. Admittedly, as per the evidence of P.W.2, doctor, the claimant was treated for a period of two months and he underwent bone surgery by opening the skull and faced severe pain and suffering. Further, there was a settlement of compromise between the driver of the crime vehicle and the claimant before the Lok Adalat, which ended its proceedings on 07-06-2002. The Tribunal relying upon the decision of the Apex Court in **Sunitha Sakit and others v. Iman Ali and others**¹ held that the evidence of the driver becomes more crucial in respect of the accident and admittedly when the driver has appeared before the Lok Adalat, accepted the accident. pleaded guilty and prayed to close the matter in terms of the compromise, the same has been closed.

7. Further, to rebut the contentions of the claimant, the appellant-insurer has not shown any evidence by way of entering into the witness box as well marking any documents on their behalf. Since respondents failed to contest the matter, the same cannot be improved at the stage of the appeal.

¹ 2000 ACJ 1553 (DB)

8. In view of the above, the appeal fails and the order passed by the Tribunal is confirmed.

9. Accordingly, the Appeal is dismissed. No costs.

10. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

T.AMARNATH GOUD, J

Date: 21-08-2019

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