

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.507 OF 2010

JUDGMENT:

This appeal is filed by the appellant-claimant in O.P.No.1048 of 2008 aggrieved by the order and decree dated 27.01.2010 passed in O.P.No.1048 of 2008 by the learned VII Additional Metropolitan Sessions Judge-cum-XXI Additional Chief Judge, Hyderabad (for short, the Court below).

2. The brief facts of the case are that the appellant was injured in a motor accident on 21.03.2008, due to the negligent driving of the vehicle bearing AP 29U 2898 by its driver. The vehicle belonged to the 1st respondent and was insured with the 2nd respondent. The appellant was aged 27 years and was earning Rs.6,000/- per month as a driver of the vehicle. On the date of the accident, the appellant was driving a motorcycle bearing No.AP 24R 5052 with another pillion rider. Near Vattimarathi Village, the vehicle of the 1st respondent coming in the opposite direction in a negligent manner, dashed the motorcycle, while trying to over take another vehicle. The appellant sustained grievous injuries. Hence, the appellant filed the present claim petition claiming a compensation of Rs.6,00,000/-.

3. Before the Court below, the 1st respondent remained *ex parte*. The 2nd respondent filed counter 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 evidence produced by the parties, the Court below granted total compensation of Rs.15,000/-, with interest @ 7.5% per annum from the date of petition till realization, i.e., Rs.10,000/- towards simple injuries and Rs.5,000/- towards medical expenses. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. While awarding the compensation, the Court below has not considered properly the injuries sustained by the appellant and also not appreciated the oral and documentary evidence adduced by the appellant.

7. In view of the above, this Court feels that the Court below ought to have proceeded further in concluding the O.P. in computing the compensation by considering the oral and documentary evidence. Hence, this Court feels that it is a fit case to be remanded back to the Court below to consider the O.P. afresh and pass appropriate orders in accordance with law.

8. Accordingly, the appeal is allowed setting aside the order and decree dated 27.01.2010 in O.P.No.1048 of 2008 passed by the Court below and remanding the matter to the Court below to consider the said O.P. afresh and dispose of the same on merits, as expeditiously as possible, preferably within a period of three (03) months from the date of receipt of a copy of this order since

the accident pertains to the year 2008, after giving reasonable opportunity to both sides. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 24th July, 2019

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