

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.Nos.953 of 2018 & 1524 OF 2018

COMMON JUDGMENT:

MACMA.No.953 of 2018 is filed by the 3rd respondent/insurance company and MACMA.No.1524 of 2018 is filed by the petitioner/claimant aggrieved by the order and decree dated 23.10.2017 passed in M.V.O.P.No.243 of 2011 by the Chairman (M.A.C.T.)-cum-IV Additional District Judge (FTC), Karimnagar (for short, 'Tribunal').

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the O.P. before the trial Court.

3. The brief facts of the case are that the petitioner/claimant, aged about 35 years, young and hailing good health, is a driver by profession and he is having driving license to drive the tractor and besides his tractor driving, the petitioner also used to attend labour work now and then from which he is getting Rs.5,000/- and odd per month and maintaining his family with his earnings. On the date of the accident, the petitioner went to the Bricks Batti at his village to attend the labour work and he along with two other labourers, by name Beepasha and Nasreen, loaded bricks in a tractor bearing B.No.AP 15Y 2503, later the 1st respondent, who is the driver of the tractor, started from the bricks batti and when the tractor reached near Rice Mill at Ambalpur Village at about 10.00 hours, the 1st respondent drove the said tractor in a rash and negligent manner with high speed and dashed to a stopped hero Honda bike, in which a couple is present and was talking by

stopping the motor cycle by the side of the road, due to which both the persons received injuries, and in that process he applied sudden breaks, due to which the petitioner and other labourers, who sat on the trailer fell down from the tractor and received injuries. Due to the negligent driving of the tractor by the 1st respondent, the petitioner received grievous injuries, due to which he is unable to do his labour work as well as driving of tractor and became disabled person, as such he lost his earnings. Therefore, the petitioner filed the claim petition claiming a compensation of Rs.6,00,000/- against the respondents, who are jointly and severally liable to pay compensation to the petitioner. The 1st respondent is the driver of the offending tractor, 2nd respondent is the owner of the said tractor and the 3rd respondent is its insurer.

4. Before the trial Court, the 3rd respondent filed counter and also additional counter denying the averments of the claim petition and contended that the amount claimed is excessive and he may be permitted to lead evidence regarding the disability certificate and other aspects and therefore, prays to dismiss the petition.

5. After considering the evidence produced by the parties, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the tractor and as per the evidence of P.Ws.1 to 3 coupled with Exs.A-1 to A-11, the petitioner/claimant sustained 40% permanent disability and awarded total compensation of Rs.4,34,000/- with interest @ 7.5% per annum i.e., Rs.25,000/- towards pain and suffering,

Rs.20,000/- towards loss of earnings for four months, Rs.3,36,000/- towards loss of future earnings, Rs.28,000/- towards medical expenses, Rs.5,000/- towards travelling, conveyance, food and nourishment and other incidental charges and Rs.20,000/- towards loss of amenities in life. Aggrieved by the said order, the 3rd respondent/insurance company filed MACMA.No.953 of 2018 and dissatisfied with the quantum of compensation, the petitioner/claimant filed MACMA.No.1524 of 2018 seeking enhancement of the same.

6. Heard.

7. Sri T.Mahender Rao, learned Standing Counsel for the 3rd respondent/insurance company submitted that the Tribunal, though discussed on the issue of liability and also on the issue of traveling with unauthorized passengers, has not given any finding and has not fastened the liability properly. The order is erroneous.

8. Having regard to the facts and circumstances of the case and in view of the submissions of Sri T.Mahender Rao, learned Standing Counsel for the 3rd respondent/insurance company, this Court feels that the matter has to be remanded to the Tribunal for re-consideration and for fresh disposal.

8. In the result, MACMA.Nos.953 of 2018 & 1524 of 2018 are allowed setting aside the order and decree dated 23.10.2017 in M.V.O.P.No.243 of 2011 passed by the Chairman (M.A.C.T.)-cum-IV Additional District Judge (FTC), Karimnagar and remanding the

matter to the Tribunal to re-appreciate in the light of the oral and documentary evidence available on record and pass appropriate orders, as expeditiously as possible, within a period of three (03) months from the date of receipt of a copy of this order, after giving reasonable opportunity to both sides. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 8th July, 2019

Note: Issue C.C. in two (02) weeks.

(B/o.)
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