

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1964 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 10.05.2006 passed in O.P.No.214 of 2002 by the Motor Accident Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Nizamabad (for short, the Tribunal).

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 1st petitioner met with an accident on 08.09.2001 at about 7.00 p.m. while he and M.Nagaraju were coming towards Bodhan bus stand from Gajulpet, Nizamabad, on foot and at about 7.00 p.m., when they reached near Golden Jubilee School, Quilla Road, Nizamabad, at that time one scooter bearing No.AAI-3223 while coming from his back drove in a rash and negligent manner and dashed against the 1st petitioner and M.Nagaraju. The 1st petitioner and M.Nagaraju fell down on the road and sustained injuries. The 1st petitioner sustained injuries i.e., fracture of left hip bone, injuries on both legs, hands, waist, head, multiple injuries all over the body. Immediately after the accident, the 1st petitioner was shifted to Sai Thirumala Hospital, Nizambad. The 1st petitioner was treated by Dr.Bhoopathi Reddy, Civil Surgeon (Orth.) and spent Rs.40,000/- towards medical expenses. In

view of the accident, the 1st petitioner died. Prior to the accident, the 1st petitioner used to attend agriculture work for 3 ½ acres of land and earning Rs.70,000/- per year. Since the 1st petitioner died during the pendency of the O.P., petitioners 2 & 3 got impleaded as per the orders in I.A.No.372 of 2004, dated 29.04.2005. Thus, petitioners filed the claim petition claiming compensation of Rs.1,00,000/-, payable by both the respondents, being the owner and insurer of the crime vehicle.

4 Before the Tribunal, respondents 1 & 2 filed separate written statements denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-12 & Ex.B-1, the Tribunal came to the conclusion that the 1st petitioner miserably failed to establish the case that he met with an accident and sustained injuries in the accident and dismissed the claim petition. Aggrieved by the said order, the appellant filed the present appeal, seeking enhancement of the same.

6. In spite of service of notice, there is no representation for the 2nd respondent/insurance company and even when the matter is listed today and the name of the National Insurance Company Limited, Nizamabad, is printed in the cause list, there is no representation for the 2nd respondent/insurance company. Since this matter pertains to the year 2006 and the accident has

taken place on 08.09.2001, dodging the matter on one pretext or the other is of no purpose. Hence, the matter is decided on the strength of the evidence and material available on record and after hearing Sri K.M.Mahender Reddy, learned counsel appearing for the appellants and perusing the material record.

7. Admittedly, on the issue of rejecting the claim petition by the Tribunal on the ground that there is a delay in filing the FIR is concerned, it is no longer a good law to reject the claim on the ground of delay in filing the FIR before the Tribunal. In view of the same, since the 1st petitioner has sustained one fracture of left hip bone and multiple injuries all over the body, this Court feels just and proper if an amount of Rs.15,000/- towards one fracture injury and Rs.1,000/- towards simple injuries is awarded to the appellants. Therefore, the total compensation comes to Rs.16,000/- (Rs.15,000/- + Rs.1,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed by awarding the compensation amount of Rs.16,000/- with interest @ 7.5% per annum from the date of petition till the date of realization, 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 appellants are permitted to withdraw the entire amount. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

T.AMARNATH GOUD, J

Date: 22nd October, 2019

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