

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2733 OF 2019; CROSS OBJECTIONS No.46 OF 2019
AND
M.A.C.M.A. No.2746 OF 2019; CROSS OBJECTIONS No.47 OF 2019

COMMON JUDGMENT:

The motor vehicle accident that occurred on 14.09.2011 at about 3:30 am., at Police Station, Baksha, Jaunpur District, Uttar Pradesh, is the common subject matter in both these appeals and, therefore, they are analogously heard and taken up for disposal by this common judgment.

2. The brief facts of the case are as under:

On 14.09.2011 at about 3.30 am., M.Poorna Chandra Rao and his wife viz., M.Sujatha, along with others were travelling in a jeep bearing No.UP65B5 3042 from Varanasi to Ayodhya, and when the jeep reached Police Station, Baksha, the driver of the jeep dashed the opposite vehicle in a rash and negligent manner, as a result of which, they sustained grievous injuries all over their bodies. M.Sujatha filed MVOP.No.601 of 2014 and M.Poorna Chandra Rao filed MVOP.No.817 of 2014 against owner and insurer of the jeep (respondent No.2 and appellant in the appeals, respectively), claiming compensation of Rs.9,00,000/- and Rs.16,00,000/- respectively, for the injuries sustained by them.

3. Before the Tribunal, owner of the jeep remained *ex parte*. The appellant-Insurance Company filed counters denying the allegations and contended that the amounts claimed by the claimants are highly excessive and that it is not liable to pay any compensation and therefore prayed to dismiss the claim petitions.

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 jeep and awarded total compensation of Rs.3,98,600/- and Rs.10,91,764/- in MVOP.Nos.601 and 817 of 2014, respectively, under various heads, with interest at the rate of 7.5% per annum. Challenging the liability fastened on it, the appellant/insurance company filed the present appeals, while the claimants, being dissatisfied with the amounts of compensation, filed the Cross Objections seeking enhancement of the same.

5. Sri V.Sambasiva Rao, learned counsel appearing for the appellant-insurance company, submits that the vehicle in question was not involved in the accident and hence, the claimants did not lodge any report before the concerned Police Station about the accident and involvement of the crime vehicle. Apart from the same, the owner of the crime vehicle did not intimate the alleged incident to the appellant-insurance company. The above aspects falsify the accident and the injuries sustained by the claimants and the Tribunal failed to consider the same. He further submits that when the claimants failed to prove the accident and the involvement of the crime vehicle, the Tribunal ought to have dismissed the claim petitions, but erroneously awarded compensation to the claimants. He further submits that in view of the above, the appellant-insurance company is not liable to pay the compensation and seeks to set aside the impugned orders.

6. Smt.A.Chaya Devi, learned counsel for the claimants, submits that lodging of FIR or Inquest Report before the Tribunal is not necessary as per the ratio laid down in **Sumitra Kaur V. New India Assurance Co. Ltd.**¹ and **Alok Sharma V. Santosh**² and hence, there are no grounds to interfere with the finding of the Tribunal in that regard. She further submits that though P.W.3, the doctor who treated the claimants, deposed that the claimants sustained grievous injuries in the accident and suffered 20% permanent partial disability, the Tribunal did not consider the same and has not granted any amount towards permanent partial disability. She further submits that due to the disability suffered, the claimants are not able to discharge their duties as they were doing prior to the accident and hence, their disability can be considered at 100%. She further submits that the claimants are entitled to future prospects as per the judgment in **Anbazhagan V. V.Shankar**³. Basing on the said submissions, the learned counsel seeks to enhance the compensation amounts awarded by the Tribunal.

7. In **Sumitra Kaur**'s case (supra), a Division Bench of High Court of Allahabad held that *'lodging the First Information Report or Inquest Report is not necessary and that what is required for the Tribunal is that it must ascertain the involvement of the victim in the accident and genuineness of claim.* In **Alok Sharma**'s case (supra), High Court of Chhattisgarh held that *'registration of the offence and police investigation is not a condition precedent for awarding the*

¹ 2013 ACJ 2462

² 2014 ACJ 585

³ 2014 ACJ 469

claim'. In view of the above preposition of law, the contention of the learned counsel for the appellant-insurance company is rejected and the finding of the Tribunal in this regard is confirmed. Insofar as the other contentions of the learned counsel for the appellant-insurance company is concerned, the Tribunal dealt with those issues in detail and ordered pay and recovery, which need no interference and hence, the same are confirmed.

8. Insofar as the contention of learned counsel for the claimants with regard to non-consideration of disability by the Tribunal is concerned, P.W.3, a Consultant Neuro & Spine Surgeon, Prime Hospital, Hyderabad, deposed that the claimants were admitted in the hospital on 17.09.2011 and they underwent surgeries. He did not depose that the claimants suffered partial permanent disability due to the injuries and has not issued any certificate in that regard. When the doctor did not depose about the disability suffered by the claimants and has not issued any certificate, the claimants are not entitled to any amounts under that head. In those circumstances, the Tribunal did not believe the claim of the claimants under that head, which needs no interference. Hence, the contention of the learned counsel for the claimants in that regard is rejected.

9. It is to be noted that as there is no evidence to show that due to the injuries sustained by the claimants in the accident they are not able to discharge their duties as they were doing prior to the accident, their alleged disability cannot be considered at 100% and

hence, the contention of the learned counsel for the claimants in that regard is also rejected.

10. In the facts and circumstances of the case, this Court is of the opinion that the Tribunal dealt with all the issues in detail and passed well reasoned orders and there are no grounds to interfere with the same. Hence, the appeals and the Cross Objections are liable to be dismissed.

11. Accordingly, the Motor Accident Civil Miscellaneous Appeals as well as the Cross Objections are dismissed. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

Date: 26-12-2019
TJMR

T.AMARNATH GOUD, J

