

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.1800 OF 2011

JUDGMENT:

This appeal is preferred by the appellant/claimant questioning the order of the Motor Accidents Claims Tribunal-cum-IV Additional District Judge (FTC), Khammam (for short, the Tribunal) in M.A.T.O.P.No.155 of 2006 dated 30.12.2008.

2. The brief facts of the case are that the appellant is resident of Lachagudem Village, Chinthakani Mandal. He is agricultural coolie and earning Rs.100/- per day. On 07.08.2005, the appellant went to coolie work on a tractor bearing No.AP 36V 8069 and while returning home, at about 2.00 p.m., on tractor, near B.C.Colony of Lachagudem, the driver of tractor drove the vehicle in rash and negligent manner, due to which, when the appellant was getting down between tractor and trailer, the hitch suddenly fell on left foot of the appellant, due to the sudden moving of the tractor, as a result he sustained crush injury on his left foot and injuries all over the body. The appellant was hale and healthy prior to the accident, but due to the accidental injuries, he was unable to attend his coolie work and to do his normal works, as a result, he became permanently disabled person, apart from loss of earnings. Hence, the appellant filed the claim petition claiming a compensation of Rs.1,50,000/- towards general and special damages. The 1st respondent, being the owner, and the 2nd respondent, being the insurer of the crime vehicle, are jointly and severally liable to pay the compensation to the appellant.

3. In the claim petition, the 1st respondent remained *ex parte* and the 2nd respondent 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 offending tractor and awarded total compensation of Rs.32,000/- towards general and special damages i.e., Rs.6,090/- towards Medical and Treatment Expenses, Rs.25,000/- towards Grievous crush injury on left foot & Rs.910/- towards loss of earnings, with interest @ 7.5% per annum. The Tribunal exonerated the liability of the 2nd respondent and directed the 1st respondent to pay the compensation amount and dismissed the claim petition against the 2nd respondent. Dissatisfied with the quantum of compensation, the appellant/claimant filed the present appeal.

5. Heard.

6. A perusal of the order reveals that the Tribunal passed a well considered order by taking into consideration all the aspects and as against the claim of Rs.1,50,000/-, the Tribunal awarded an amount of Rs.32,000/- with proportionate costs and interest @ 7.5% per annum. Hence, this Court finds that the compensation

awarded by the Tribunal is just and reasonable. Therefore, I see no reason to interfere with the order of the Tribunal.

7. With regard to the fixation of liability, the Tribunal exonerated the liability of the 2nd respondent and directed the 1st respondent to pay the compensation amount and dismissed the claim petition against the 2nd respondent. In the similar circumstances, the Hon'ble Supreme Court in **Shivaraj Vs. Rajendra**¹, directed the insurance company to pay the compensation amount at the first instance and recover the same from the owner of the crime vehicle. In view of the same, respondent No.2 is directed to pay the compensation amount at the first instance and recover the same from respondent No.1.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by directing the Respondent No.2-insurance company is directed to pay the compensation amount at the first instance and recover the same from respondent No.1-owner of the crime vehicle. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 18th July, 2019

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¹ 2018 AIR (SC) 4252