

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.841 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 20.01.2005 passed in O.P.No.750 of 2001 by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-III Additional District Judge, at Karimnagar (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 petitioner is aged about 60 years and he is an agriculturist and earning Rs.6,000/- per month. On 25.02.2001, he along with his wife were travelling in a hired RTC bus bearing No.AP-15-V-1358. While so at 8.00 P.M., he got down at Porandla bus stop and kept two pendals on the top of the bus and he informed to the driver and conductor and when he is removing the pendals from the top of the bus, the 1st respondent driver of the bus suddenly started the bus. Then he fell down from the bus and sustained injuries to both the hands and fractures to wrists, right elbow and also injury on his abdomen, legs and knees. Immediately, after the accident, he was shifted to the District Head Quarters Hospital, Karimnagar, and he was in the hospital upto 09.03.2001 and after that he took treatment in Sai Sri Ortho Clinic, Karimnagar, by spending huge amount. He suffered from

permanent disability and mental agony. Even after the treatment, he was unable to recover and unable to discharge his duties. The 1st respondent is the driver of the hired RTC bus, which belongs to the 2nd respondent and insured under the 3rd respondent and hired to the 4th respondent. Hence, the petitioner filed the present claim petition claiming compensation of Rs.1,00,000/- payable by respondents 1 to 4, who are jointly and severally liable to pay compensation to the appellant.

4. Before the Tribunal, respondent Nos.1 & 2 remained *ex parte*. Respondent No.3 filed written statement and also additional written statement denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition. The Respondent No.4 also filed written statement contending that the accident occurred due to the negligence of the petitioner himself and there is no negligence on the part of the 1st respondent and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the petitioner failed to prove that he travelled in RTC bus bearing No.AP-15-10-1358, which met with accident as per the FIR and charge sheet and dismissed the claim petition. Aggrieved by the same, the present appeal is filed by the petitioner/claimant.

6. Heard.

7. Basing on the evidence of P.W.2-Dr.Kondal Reddy, who deposed that he gave treatment to the claimant and that on 25.02.2001 at about 9.00 p.m. to 10.00 p.m., when the claimant was brought to the hospital, he found five injuries on him and issued Ex.A-7-Carbon copy of wound certificate and as per the medical record, which is marked as Ex.A-5, the claimant sustained certain simple injuries and as per Ex.A-6-C.T.Scan report, the claimant underwent C.T. Scan of brain, this Court feels that it would be just and proper if an amount of Rs.5,000/- is awarded to the claimant since the case of the claimant has not been proved beyond reasonable doubt claiming the compensation of Rs.1,00,000/-.

8. Insofar as claiming of disability of the claimant is concerned, this Court feels that the disability certificate cannot be relied upon as there is some tampering of record on the disability certificate of 40% disability issued by P.W.2.

9. Since the sole appellant died on 04.06.2012, Appellant Nos.2 to 6 were brought on record as legal representatives of the deceased appellant *vide* order, dated 18.03.2015, passed by this Court in MACMAMP.No.4897 of 2014. Appellant No.2 is the wife and Appellant Nos.3 to 6 are the daughters of the deceased-Kinnera Komuraiah.

10. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed setting aside the order and decree dated 20.01.2005 in O.P.No.750 of 2001 passed by the Tribunal and

compensation amount of Rs.5,000/- with interest @ 7.5% per annum from the date of petition till realization is awarded to appellant Nos.2 to 6. 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, Appellant Nos.2 to 6 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: 20th September, 2019

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