

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.1294 OF 2006

JUDGMENT:

This appeal is preferred by the appellant/petitioner/claimant questioning the order of the Chairman, Motor Accidents Claims Tribunal (V Additional District Judge), At Nizamabad (for short, the Tribunal) in O.P.No.583 of 2002 dated 05.12.2005.

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 the resident of Bhairapoor Thanda of Nizamabad District. He is aged about 25 years and agriculturist by profession. Before accident, he was earning Rs.6,000/- per month from the above said avocation. On 22.11.2001 at 8.00 a.m. he was proceeding from Manchippa to go to Nizamabad on his motorcycle. On the way, when he reached the outskirts of Manchippa Village, the crime auto bearing No.AP-25-T-9759 dashed his motorcycle in a rash and negligent manner. As such, he sustained injuries i.e., fracture to right leg both bones, fracture of left hand and other multiple as well as grievous injuries on his body. He sustained permanent disability. Immediately after the accident he was admitted in the hospital of Dr.L.Ramulu, Orthopaedic Surgeon, Nizamabad and has incurred Rs.40,000/- for his treatment towards medicine. Hence, the petitioner filed the claim petition

claiming compensation of Rs.3,00,000/-, payable by both the respondents, being the owner and insurer of the crime vehicle.

4. In the claim petition, the 1st respondent remained *ex parte*. The 2nd respondent filed written statement denying the allegations and contended that the amount claimed by the claimant is highly excessive and that they are not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and documentary evidence of Exs.A-1 to A-5, Ex.C-1 & Ex.B-1, the Tribunal came to the conclusion that the petitioner failed to place trustworthy, cogent and independent evidence in support of his case to prove his alleged and asserted number of injuries, nature of injuries, treatment, expenditure incurred therefor and disability and loss of income and accordingly dismissed the claim petition. Aggrieved by the said order, the appellant/petitioner/claimant filed the present appeal.

6. Heard Sri Azar Sravan Kumar, learned counsel for the appellant and Sri Kota Subba Rao, learned standing counsel for the 2nd respondent/insurance company.

7. A perusal of the order reveals that the Tribunal passed a well considered order by taking into consideration all the aspects. Since the appellant has not made out a case before the Tribunal, the same cannot be improved in the appeal since the

crime vehicle number indicated in the complaint is different from the vehicle number, which is reflected in the charge sheet and since the issue No.1 regarding fastening of the liability is answered against the claimant, the fixing of compensation does not arise. Therefore, I see no reason to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

8. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed confirming the award and decree passed by the Tribunal. No order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 27th November, 2019

KL