

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1328 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Judgment and Decree dated 05.01.2005 in O.P.No.118 of 2002 by the Motor Accidents Claims Tribunal (V Additional District Judge) at Nizamabad (for short, the Tribunal).

2. The brief facts of the case are that on 04.09.2001, while the appellant was traveling in an auto bearing No.AP25T 9733 from Krishnanagar to Nizamabad, and when the auto reached Tirupatamma Hotel near Sham Petrol Pump, at about 10.00 am., the driver of the auto drove it in a rash and negligent manner with high speed, as a result of which, the auto turned turtle. In the said accident, the appellant sustained several injuries. He filed the above OP against respondent Nos.1 and 2, owner and insurer of the auto, claiming compensation of Rs.2,00,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 filed counter denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the claimant is excessive, exorbitant, imaginary and out of proportion and sought to dismiss the 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

auto. However, the Tribunal disbelieved the claim of the appellant with regard to sustaining injuries, disability, treatment and loss of income and dismissed the OP. Challenging the said Judgment, the appellant filed the present appeal.

5. Heard.

6. As seen from the record, the appellant claimed that in the accident, he sustained fracture injury on the left thigh and injuries on both hands, back, chest, neck and both bones of right leg. He also claimed due to the said injuries, he suffered permanent disability. To prove his case, the appellant relied on Exs.A.4 and 6 to 9 and the evidence of P.W.2, a private doctor who treated the appellant. Though the appellant claimed that he sustained multiple injuries and fractures, Ex.A.4-wound certificate issued by P.W.2, discloses only one injury and hence, the Tribunal disbelieved his evidence. As Exs.A.7 to 9-X-rays, do not bear name of the petitioner and the date when they were taken, the Tribunal did not believe them also. In those circumstances, the Tribunal, holding that at every stage, case of the petitioner is inconsistent with his pleadings and the evidence brought on record with regard to number of injuries, nature of injuries and place of injuries, dismissed the OP by the impugned judgment, which in the opinion of this Court, is just and proper and needs no interference.

7. In the result, the Motor Accidents Civil Miscellaneous Appeal is dismissed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

T.AMARNATH GOUD, J

Date: 25-11-2019
TJMR

