

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 499 OF 2006

JUDGMENT:

This appeal is directed by the injured-claimant against the award dated 10.11.2005 passed by the Motor Accidents Claims Tribunal-cum-IV-Additional District Judge, Warangal (for short 'the Tribunal), in O.P.No.507 of 2004.

2. For the sake of convenience, the parties herein are referred to as arrayed in the tribunal.

3. The case of the petitioner is that he was working as head constable attached to DCRB, Warangal and that on 20.09.2003 at about 05.20 a.m. on morning walk on the road, when he is at Azam Zahi mills compound wall, an auto trolley bearing No.AP V 7502 driven in a rash and negligent manner and at high speed, dashed against him, from behind, as a result of which, the claimant sustained serious injuries and soon after the accident, the petitioner was taken to Ganesh Orthopaedic Hospital, Hanamkonda and treated as inpatient from 20.09.2003 onwards, underwent surgery and advised to take bed rest for four months and that inspite of spending Rs.30,000/- for his treatment, he did not completely recover.

4. Respondent No. 1 remained set exparte before the tribunal. Respondent No.2 – Insurance Company filed counter denying claim petition.

5. In order to prove the case of the claimant, PWs.1 to 3 were examined and marked Exs.A1 to A.12 on their behalf and Ex.B.1 statement of PW.3. No oral or documentary evidence is adduced on behalf of the respondents in support of their contentions. Basing on the pleadings, oral and documentary evidence, the tribunal framed the following issues:

- 1) Whether the accident occurred on 20.09.2003 due to rash and negligent driving of the vehicle bearing No.AP 36 V 7502 (Auto Trolley) driven by its driver as per Section 166 of the M.V. Act?
- 2) Whether the petitioner is entitled for compensation, if so, what amount and from whom?
- 3) To what relief?

6. The claimant claimed compensation of Rs.1,00,000/-. But the tribunal has disbelieved the version of the claimant stating that being Head Constable, claimant used influence to plant the insured vehicle and thereby dismissed the claim of the appellant. But, it is to be seen that no adverse inference can be drawn when there is no specific evidence against the injured-claimant. Though, PW.1 deposed that the number of crime vehicle is AP 36 V 3097, as per the evidence of PW.3 and Exs.A.4-attested copy of registration certificate, A7-attested copy of insurance policy and Ex.A3-charge sheet, the number of the crime vehicle number is AP 36 V 7502. Therefore, it can be safely presumed that the accident occurred due to rash and negligent driving of the driver of the auto trolley bearing No.AP 36 V 7502. The claimant sustained two simple injuries. Therefore, it is just and proper to grant Rs.30,000/- towards two simple injuries and Rs.10,000/- towards pain and

suffering. Thus, the claimant is entitled for total compensation of Rs.40,000/- with interest @ 7.5% per annum from the date of petition till the date of realization.

7. Accordingly, the appeal is allowed-in-part. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 16.09.2019
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