

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2053 of 2005

JUDGMENT:

This appeal is filed by the appellant/claimant questioning the order passed in O.P.No.1272 of 2001, dated 11-10-2004, of the Motor Accident Claims Tribunal (VI Additional District Judge), (FTC), Nizamabad (for short, the Tribunal).

2. Brief facts of the case are that on 26-03-2001 at 11.35 am, when the appellant/claimant along with others is traveling in a car bearing No.AP-25U-14 from Armoor to Nizamabad and at Manik Bandar Shivar, the driver of the car drove the same in rash and negligent manner at high speed and dashed against an APSRTC bus bearing No.AP-10Z-371, due to which, he sustained injuries. Hence, he filed claim petition claiming compensation of Rs.1,50,000/- for the injuries sustained by him against the respondent Nos.1 and 2 who are owner and insurer of the crime vehicle on the ground that he is working as an operator of stone crusher and he is only the bread winner of his family.

3. In the claim petition, the 2nd respondent-insurer 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 held that the accident occurred due to rash and negligent driving of the driver of the crime vehicle but it did not incline to grant

compensation on the ground that the claimant failed to adduce reliable evidence to assess the compensation payable to him by the respondents. Accordingly, the Tribunal dismissed the claim petition. Aggrieved by the same, the claimant filed this appeal.

5. Heard.

6. Learned counsel for the claimant contended that the claimant sustained three fracture injuries in the accident and even though doctor's evidence is discarded, as per the documentary evidence and as per the schedules mentioned in the Motor Vehicles Act, the claimant is entitled for an amount Rs.5,000/- each for the three fracture injuries and in addition to that, he is also entitled to compensation towards medical expenses, pain and suffering and transportation etc. Hence he prayed for fair compensation.

7. Admittedly, it is a case of claimant for the injuries sustained by him in the accident occurred due to the rash and negligent driving of the driver of the crime vehicle. Further, as evidenced by P.W.2, doctor, who treated the claimant in the hospital, the claimant was admitted in hospital on 26-03-2001 and discharged on 15-04-2001 and he issued Ex.A-6, discharge summary dated 15-04-2001 for Rs.8,500/-; that the claimant was having dislocation of the right hip joint, painful and restricted movements of the right hip joint and estimated the disability of the claimant at 35%; and he also issued Ex.A-4 disability certificate to that effect.

8. Having regard to the facts and circumstances of the case, this Court is of the opinion that fixing an amount of Rs.15,000/- towards three fracture injuries; Rs.8,000/- towards medical bills; Rs.2,000/- towards

transportation and Rs.5,000/- towards pain and suffering, extra nourishment and attendant charges etc. Hence, the claimant is entitled to be paid total compensation of Rs.30,000/-.

9. Accordingly, the Motor Accident Civil Miscellaneous Appeal is allowed in part. The appellant is awarded compensation of Rs.30,000/- (Rupees Thirty Thousand only). The respondent Nos.1 and 2 are jointly and severally directed to pay said compensation with proportionate costs interest within two months from the date of receipt of a copy of this order. The amount of compensation granted by this Court shall carry interest at 7.5% per annum. On such deposit, the appellant/claimant is permitted to withdraw the entire amount. No costs.

10. Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 11-09-2019

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