

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 1563 OF 2006

JUDGMENT:

This appeal is directed by the claimant against the award dated 29.12.2005 passed by the Motor Accidents Claims Tribunal-cum-III Additional District Judge (FTC II), Khammam (for short 'the Tribunal), in M.A.T.O.P.No.915 of 2001, whereby the tribunal dismissed the O.P. on the ground that Ex.A.3 medical certificate shows that X ray reveals that the injury is an old fracture to ring finger of right hand and that Ex.B.1 does not fall for consideration in the circumstance stated in issue No.1 and that the petitioner has not made out a case by way of evidence to prove the accident and the treatment.

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

4. Respondent No.1 remained exparte. Respondent No.2 filed counter denying the claim petition.

5. It is the case of the petitioner that on 13.11.2000 at Kistaram Village at about 10.30 a.m., he boarded an auto bearing No. AP 20U 3449 to go to Penuballi, when the auto reached Lankasagar Cross Road, the driver of the auto drove the same in rash and negligent manner and dashed against

the she-buffalo, which was coming in opposite direction, the auto turned turtle and that the petitioner sustained grievous and simple injuries, he was shifted to Government Hospital, Penuballi and he was given first aid. Due to non availability of X ray, he was sent to the Government Hospital, Sathupalli, where x ray was taken for his right hand palm and ring finger. The petitioner was taken treatment in the hospital of Dr R.Ramachander Rao, Burugugudem and later he was treated from Dr V.Venkateswara Rao, Sathupalli. The petitioner suffered fracture to right hand ring finger and was unable to lift any weight with that hand and that its movement was completely restricted and that he was not in a position to attend for his normal duties. The petitioner suffered permanent disability.

6. In order to prove the case of the claimant, he was examined as PW.1 and marked Exs.A1 to A.17 and Ex.B.1 copy of insurance policy policy. No oral evidence is adduced on behalf of the respondents.

7. Learned standing counsel for the insurance company vehemently opposed the claim petition and prayed to confirm the award passed by the tribunal since the claimant has not made out any case before the tribunal and there is no need of interference of this Court.

8. It is a case of injuries. Admittedly, as seen from Ex.A.1- FIR and Ex.A.2 – charge sheet and medical certificate goes to show that the accident has taken place and the claimant sustained fracture injury on right hand ring finger. Though the fracture is not grievous in nature, the claimant has suffered pain and also underwent medical treatment and will not be in a position to attend his regular work for some time. Therefore, this Court feels that awarding Rs.10,000/- under all heads including pain and suffering etc. it would be just and proper with interest at 7.5% per annum from the date of petition till the date of realization. Respondents are directed to deposit the compensation amount jointly and severally within three months from the date of judgment.

9. In view of the above, the appeal is allowed in part. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 17-10-2019
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