

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No.1219 OF 2004

JUDGMENT:

This petitioner-injured filed this appeal having been aggrieved by the dismissal of award in O.P.No.1390 of 2001, dated 15.12.2003, passed by the Motor Accidents Claims Tribunal (I Additional District Judge) Warangal (for short 'the Tribunal).

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

3. The brief facts of the case are hereunder:

On 27.06.2001 during morning hours the petitioner and his brother, who is the petitioner in O.P.No.1378 of 2001, were returning on a bicycle to Balasamudram from D.C.C.B. Bank, at about 10.00 a.m. when they reached State Bank of Hyderabad, Nakkalagutta in Hanamkonda, one Auto bearing No.AP 36 U 5219 came in a rash and negligent manner and hit the bicycle and as a result the petitioner and his brother fell down on the road and sustained grievous injuries and both were shifted to Veena Medicare Hospital, Hanamkonda and they were treated in the said hospital as inpatients. The petitioner filed O.P.No.1390 of 2001 claiming compensation of Rs.1,00,000/- on account of injuries sustained by him in the accident and his brother filed O.P.No.1378 of 2001 for Rs.2,00,000/-.

4. The Tribunal dismissed the claim of the petitioner on the sole ground that there is inordinate delay of 87 days in lodging the complaint before the police and thus the very accident has been doubted and accordingly dismissed O.P.No.1390 of 2001. Aggrieved thereby, present appeal is filed.

5. Heard both sides.

6. Learned counsel for the appellant submits that the brother of the petitioner filed C.M.A.No.1060 of 2004 against dismissal of O.P.No.1378 of 2001 and this Court by order, dated 02.04.2015, allowed the appeal in part awarding compensation of Rs.30,000/- with interest at 7.5% per annum holding that respondent No.1-owner of the auto and respondent No.2-Insurance Company are jointly and severally liable to pay the compensation, holding that the evidence of PWs.1 and 3 and also medical evidence of PWs.2 and 3 respectively with reference to Exs.A.3 and A.10 clearly established that they sustained the injuries as claimed by them on that day i.e., on 27.06.2001 in the accident and the auto of the 1st respondent was involved and auto admittedly insured with the 2nd respondent. Following the same, this appeal has to be allowed in part by awarding Rs.30,000/- to the petitioner.

7. In view of the above, the appeal is allowed in part by awarding compensation of Rs.30,000/- with interest at 7.5% per annum from the

date of filing of the present appeal till the date of realization. Respondent Nos.1 and 2 are jointly and severally liable to pay the awarded compensation with interest. The 2nd respondent is hereby directed to deposit the same within one month from the date of this order. The petitioner/appellant is permitted to withdraw the awarded amount after deposit made by the 2nd respondent by filing petition for withdrawal of amount before the Tribunal. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

30th August 2019

mar

T.AMARNATH GOUD, J

