

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.407 OF 2011

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Award and Decree dated 03-06-2008 passed in O.P.No.467 of 2005 by the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-I Additional District Judge at Warangal (for short, the Tribunal).

2. The brief facts of the case are that on 25.03.1996, while the appellant was riding his motorcycle bearing No.AP23A 4432 and when he reached Dubbak Junior College, a tractor-trailor bearing No.AP23T 8500 and 8501 came in a rash and negligent manner with high speed and dashed the motorcycle of the appellant. In the said accident, the said tractor-trailor ran over the leg of the appellant. He filed the above OP against respondent Nos.1 and 2, owner and insurer of the tractor-trailor, claiming compensation of Rs.3,45,000/- 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 appellant has not been able to satisfactorily prove that the accident occurred due to the negligent driving of the driver of crime vehicle and dismissed

the OP. Challenging the same, the appellant filed the present appeal.

5. Heard.

6. It is evident from the record that the accident had occurred on 25.03.1995 and the appellant lodged Ex.A.1, report, on 28.06.1996 i.e., after three months of the incident. Apart from the same, though the accident had occurred at Dubbak in Medak District, the appellant filed OP before the Tribunal, which is in Warangal District, that too, with a delay of ten years. By relying on the said circumstances, the Tribunal disbelieved the case of the appellant and dismissed the claim petition.

7. Insofar as delay in filing the claim petition is concerned, learned counsel for the appellant submitted that due to the accident, the appellant suffered serious fractures and took treatment for fractures for a very long time; that he is still suffering with pain and that therefore, he could not file the claim petition within the period of limitation. He further submitted that there is no limitation to file claim petition and it can be filed at any time as per Section 166(3) of the Motor Vehicles Act, 1988 (for short, the Act).

8. It is true that the Act is a beneficial legislation and no limitation is prescribed under the Act to file claim petition, but, at the same time, the inordinate delay of ten years has to be explained. But, the claimant has not explained the reasons for such delay. Hence, the finding of the Tribunal in that regard is

confirmed. Insofar as the other aspect of filing the OP before the Tribunal instead of Tribunal at Medak District is concerned, the appellant did not explain any reason for the same and hence, the finding of the Tribunal in that regard is confirmed. In the facts and circumstances of the case, this Court finds no ground to interfere with the Award of the Tribunal and hence, the appeal is liable to be dismissed.

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

Date: 19-12-2019
TJMR

T.AMARNATH GOUD, J

