

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2513 of 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 10-05-2006 passed in O.P.No.213 of 2002 by the M.A.C.T.-cum-IV Additional District Judge (FTC), Nizamabad (for short, the Tribunal).

2. Brief facts of the case are that the claimant filed the claim petition against the respondents claiming compensation of Rs.1.00 lakh for the injuries sustained by him in the motor accident when he is proceeding on road near Golden Jubilee school, Quilla Road, Nizamabad.

3. In the claim petition, the 2nd respondent-insurer filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal dismissed the claim petition holding that the petitioner miserably failed to establish the case that he met with an accident and sustained injuries in the accident.

5. Aggrieved by the same, the appellant/claimant filed the present appeal.

6. Heard and perused the material available on record.

7. Admittedly, the Tribunal dismissed the claim petition on the ground that the evidence of P.W.2, doctor, and the Certificates issued by him cannot be considered since P.W.2 is in a habit of issuing such certificates which are not genuine. Further, the case was registered with a delay of four days and thus, the Tribunal dismissed the claim petition.

8. However, the appellant/claimant, in support of his claim, examined P.W.1, himself and two doctors and got marked Exs.A-1 to A-13. But the 2nd respondent-insurer has not chosen to lead its evidence either oral or documentary and further it is seen from the record that in the charge sheet, the Investigating Officer has categorically stated that the accused who dashed the claimant with his scooter got surrendered on 13-09-2001 voluntarily and confessed his negligence for the accident before the police and he was also imposed a fine of Rs.1,000/- by the Additional Judicial First Class Magistrate, Nizamabad.

9. Further, in the light of Ex.A-3, wound certificate, the appellant/claimant sustained one grievous fracture and two simple injuries. Hence, this Court feels awarding a sum of Rs.15,000/- towards grievous and Rs.2,000/- each towards two simple injuries, totaling Rs.19,000/-, would be just and reasonable. Therefore, the

claimant is entitled to be granted compensation of Rs.19,000/- (Rs.15,000/- + Rs.2,000/- + Rs.2,000/-).

10. In the result, the appeal is allowed in part by granting compensation of Rs.19,000/- (Rupees Nineteen Thousand only) with interest at 7.5% per annum through out. The respondents are directed to deposit the said amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is permitted to withdraw the entire amount. No costs.

11. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 06.12.2019
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