

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.169 OF 2011

JUDGMENT:

This appeal is preferred by the appellant/2nd respondent/insurance company questioning the order of the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-The Principal District Judge, Medak, at Sanga Reddy (for short, the Tribunal) in O.P.No.355 of 2002 dated 15.02.2005.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that on 29.12.2001 the petitioner was traveling by lorry bearing No.AP-9/U-6555 with his vegetable bags and when the lorry was near SOL Cross Roads, National Highway No.9, Patancheru, its driver drove it in a rash and negligent manner and dashed to another lorry bearing No.AHT 9285 that came in opposite direction, due to which, the accident occurred and the petitioner sustained fractured multiple injuries. The petitioner was admitted in Gandhi Hospital, Secunderabad. The petitioner, who is aged about 52 years, was working as vegetable vendor and earning Rs.3,000/- per month at the time of the accident, but due to the fractured injuries sustained in the said accident, he suffered great loss and hardship. Hence, the petitioner filed the claim petition claiming compensation of Rs.1,50,000/-

with costs and interests, payable by both the respondents, being the owner and insurer of the offending lorry bearing No.AP-9/U-6555.

4. In the claim petition, the 1st respondent remained *ex parte*. The 2nd respondent filed 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.

5. After considering the oral evidence of P.Ws.1 & 2 and documentary evidence of Exs.A-1 to A-6 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending lorry and awarded total compensation of Rs.90,000/- with interest @ 9% per annum from the date of filing till the date of realization, i.e., Rs.15,000/- towards shock, pain, suffering and loss of amenities of life, Rs.50,000/- towards amputation of left leg crushed in the accident, Rs.10,000/- towards fracture of right leg, Rs.5,000/- towards medical and incidental expenses, Rs.5,000/- towards loss of future income and Rs.5,000/- towards social disability. Aggrieved by the said order, the appellant/2nd respondent/insurance company filed the present appeal.

6. Heard both sides. Perused the material record.

7. A fair perusal of the order clearly reveals that the order passed by the Tribunal in awarding compensation of Rs.90,000/- towards amputation of left leg and pain and suffering and disability is just and reasonable, but with regard to the contention that the claimant was a gratuitous passenger on the goods vehicle is concerned, the same has not been established by the 1st respondent/claimant before the Tribunal by filing any oral or document evidence in support of his contention. In view of the same, this Court finds that there is no infirmity in the order passed by the Tribunal. Therefore, I see no reason to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

8. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed confirming the award and decree passed by the Tribunal in all respects, including the rate of interest. No order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 19th December, 2019

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