

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.58 of 2015

JUDGMENT:

This appeal is preferred by the appellant/claimant questioning the order of the Motor Accident Claims Tribunal-cum-XIII Additional Chief Judge (FTC), City Civil Court, Hyderabad (for short, the Tribunal) in M.V.O.P.No.1863 of 2010 dated 11-09-2014.

2. Brief facts of the case are that on 08-05-2009 at about 3 pm, the claimant was proceeding in an auto bearing No.AP 23v 2252 along with her husband and minor baby of 15 days from Dharur Cross Road towards Ampally and when she reached the outskirts of Dharur village, the driver of the their auto drove it in a rash and negligent manner with high speed, lost the control over the vehicle and dashed against culvert, resulting which, the claimant received the grievous injuries. Hence, the claimant filed the claim petition claiming compensation of Rs.2.00 lakhs against the respondents who are the owner and insurer of the crime vehicle, for the injuries sustained by her.

3. In the claim petition, the 2nd respondent-insurer filed a 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.

4. After considering the oral and documentary evidence on record, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of the crime vehicle. Insofar as quantum of

compensation is concerned, the Tribunal granted compensation of Rs.83,000/- i.e. Rs.35,000/- towards injuries; Rs.5,000/- towards medical expenses; Rs.8,000/- towards pain and suffering and mental agony; Rs.15,000/- towards extra nourishment and attendant charges; and Rs.20,000/- towards loss of earning. Dissatisfied with the quantum of compensation, the claimant filed this appeal.

5. Heard.

6. The claimant contends that the compensation granted for the injuries may be enhanced on the ground that she is suffering from 30% disability due to the injuries sustained by her and in support of her contention, she relied upon the disability certificate Ex.A-5 issued by P.W.2-doctor.

7. Admittedly, the accident has taken place in the month of May 2009 and Ex.A-5, disability certificate, is issued by P.W.2 in the month of November 2013 and there is no evidence to show the nexus between the injury and the said certificate. Moreover, P.W.2 has not treated the claimant at the time of accident in May 2009 when she admitted in Osmania General Hospital and he is a private doctor. Further, as contended by the claimant, though she was admitted in hospital for a period of 22 days but did not obtain any certificate from the doctors concerned. Therefore, this Court feels that obtaining Ex.A-5, disability certificate, is only an after thought for the purpose of claiming compensation only. Hence, this certificate is not acceptable and therefore the contention of the claimant for enhancement of compensation under the head of disability cannot be countenanced.

8. Insofar the compensation awarded by the Tribunal under other heads is concerned, the award of the Tribunal is well considered, just and proper and cannot be interfered with by this Court.

9. Accordingly, the Appeal is dismissed. No costs.

10. Miscellaneous petitions pending, if any, shall stand dismissed.

No order as to costs.

T.AMARNATH GOUD, J

Date: 09-08-2019

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