THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.548 OF 2016

JUDGMENT:

This appeal is preferred by the appellant/3rd respondent/insurance company questioning the order of the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-Principal District Judge, Karimnagar (for short, the Tribunal) in M.V.O.P.No.483 of 2012 dated 31.07.2014.

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 14.11.2007 the petitioner and 1st respondent, who is the driver of the harvester, were engaged in the paddy fields of Pujari Narender for harvesting the paddy. The work was completed by 1.00 p.m. After completion of work in the fields of Pujari Narender, the 1st respondent and the petitioner were going to the fields of Nelapatla Chandra Reddy and on the way, the harvester came into contact with 11KV high tension power line. The 1st respondent anticipating the accident jumped from the harvester to save himself. The petitioner sustained electric shock as the harvester came into contact with 11KV live wires. The petitioner sustained burn injuries all over the body. The wheels of the harvester were burned down. The petitioner was saved and shifted to Rohini Hospital,

Hanmakonda. The right leg and two fingers of left leg were removed because of the infection caused due to the burns. The petitioner was shifted to Gandhi Hospital, Secunderabad, from Rohini Hospital, Hanmakonda, for better treatment. The petitioner was treated at Gandhi Hospital from 21.01.2008 to 12.02.2008 and the petitioner incurred an expenditure of Rs.20,000/- towards his treatment and for other necessary tests and investigations conducted at the hospital. The petitioner incurred an expenditure of Rs.6.00 lakhs towards his medical treatment at different hospitals. The petitioner suffered permanent disability because of amputation of right leg and loss of fingers of the left foot. Hence, the petitioner filed the claim petition claiming compensation of Rs.15,00,000/-, payable by all the respondents, being the driver, owner and insurer of the offending harvester.

4. In the claim petition, all the respondents filed separate counters 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 R.Ws.1 & 2 and documentary evidence of Exs.A-1 to A-8 and Exs.B-1 to B-4, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the 1st respondent and awarded total compensation of

Rs.11,10,850/- i.e., Rs.1,94,850/- towards medical expenses, Rs.8,16,000/- towards loss of future earnings on account of disability and Rs.1,00,000/- towards purchase of artificial limb and future medical expenses, with interest @ 7.5% per annum from the date of petition till the date of actual deposit, payable by all the respondents jointly and severally. Aggrieved by the said order, the appellant/3rd respondent/insurance company filed the present appeal.

6. Heard Sri A.Ramakrishna Reddy, learned standing counsel for the appellant/insurance company, Sri C.Damodar Reddy, learned counsel for the 1st respondent/claimant and Sri Srinu Babu Naidu, learned counsel for the 3rd respondent/insurance company. Perused the material record.

7. Sri A.Ramakrishna Reddy, learned standing counsel for the appellant/insurance company, vehemently contended that the appeal has to be allowed and the claim made in the O.P. has to be dismissed since the policy does not cover the liability of the persons travelling on the harvester as the insurer has not paid any premium to cover the risks of the persons travelling on the harvester.

8. This Court is not inclined to appreciate the contentions of the insurance company since the policy issued is a miscellaneous package policy and in the premium computation table, the insurance company has categorically collected liability premium for owner-cum-driver, employees,

un-named persons (2). The accident has taken place on 14.11.2007 and the period of policy is from 12.11.2007 to 11.11.2008. Since there is only one claim made during the policy period and it is by the claimant herein, who was an employee upon the harvester and no further claims were made, in the light of the evidence of R.W.2-B.Bhoja Raju Senior Executive of the appellant/3rd respondent/insurance company, and Exs.B-1, B-2 & B-4, this Court feels that it is a fit case for considering the claim of the petitioner and awarding compensation is just. In view of the same, the order passed by the Tribunal is just and proper and needs no interference and the appeal is liable to be dismissed.

9. 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: 27th November, 2019

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