

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.2660 OF 2016

JUDGMENT:

This appeal is preferred by the appellant/2nd respondent/insurance company questioning the order of the Motor Accidents Claims Tribunal [II Additional District Judge (FTC)], Nizamabad (for short, the Tribunal) in M.V.O.P.No.143 of 2013 dated 04.01.2016.

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

3. The brief facts of the case are that the petitioner is aged about 32 years and working as Supervisor in Venkata Sai Motor, Nizamabad, with monthly income of Rs.20,000/- and he is also an agriculturist earning Rs.2,00,000/- per annum. On 30.01.2012 while the petitioner was proceeding on Hero Honda Motor Cycle from his place of work i.e., John Deere show room, Nizamabad, and when he reached near ESSAR Petrol Pump, Sarangapoor, at 1.30 p.m., one lorry bearing No.AP 25V 3786, driven by its driver in rash and negligent manner which was coming from Bodhan to Nizamabad side and dashed against the motor cycle as a result of which the petitioner sustained grievous injuries. Hence, the petitioner filed the present claim petition originally claiming a compensation of Rs.10,00,000/- and thereafter enhanced the same to Rs.15,00,000/-.

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

5. After considering the oral and documentary evidence on record, 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.9,00,0000/-with interest @ 7.5% per annum i.e., Rs.1,00,000/- towards pain and suffering, Rs.90,000/- towards loss of earnings for the period of his treatment and till he recouped his health, Rs.4,28,000/- towards medical treatment charges, Rs.25,000/- towards extra nourishment, Rs.50,000/- towards loss of amenities, Rs.1,00,000/- towards loss of disability and Rs.1,07,000/- towards future surgery and future medication. Aggrieved by the said order, the appellant/2nd respondent/insurance company filed the present appeal.

6. Heard Sri Anirudh, learned counsel representing Smt. P.Satya Manjula, learned counsel appearing for the appellant/insurance company and Sri Akkam Eshwar, learned counsel appearing for the 1st respondent/claimant.

7. The grounds in the appeal are that the amount awarded by the Tribunal is excessive and the medical bills Exs.A-10 & A-11 cannot be accepted and there is no eye witness and the charge sheet is filed beyond 90 days without any explanation and in the absence of disability certificate, no amount can be awarded under the head of loss of disability. The respondents have not chosen to appear before the Tribunal to adduce their oral evidence nor filed any documentary evidence in support of their case. On the date of the accident, the claimant was injured with three grievous injuries (1) right intertrochanteric fracture and shaft femur fracture (2) left tibial plateau fracture & (3) left distal radius fracture with head injury. The petitioner underwent surgery for all the above said injuries in KIMS Hospital and Orthopedic Surgeon and Neuro Surgeon were examined as P.Ws.2 & 3. In the light of their evidence and the medical bills issued by them, there cannot be any iota of doubt.

8. Having regard to the above, this Court feels that the Tribunal has passed a well considered order by taking into consideration all the aspects and as against the claim of Rs.15,00,000/-, the Tribunal awarded an amount of Rs.9,00,000/- with interest @ 7.5% per annum. Therefore, I see no reason to interfere with the order of the Tribunal 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: 26th August, 2019

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