

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.No.90 of 2019

JUDGMENT:

This appeal is filed by the Insurance Company, United India Insurance Company Limited, under Section 173 of Motor Vehicles Act, aggrieved by the order and decree, dated 09.11.2018 passed in M.V.O.P.No.1703 of 2013 on the file of the Motor Accidents Claims Tribunal-cum-II Additional chief Judge, City Civil Court, Hyderabad (for short "the Tribunal").

2. For the sake of convenience, the parties will be hereinafter referred to as arrayed before the Tribunal.

3. Brief facts of the case are that the petitioner filed a petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.5,00,000/- for the injuries sustained by him in a motor vehicle accident that occurred on 23.03.2013. It is stated that on 23.03.2013 while the petitioner was travelling in Auto bearing No.AP 20 V 2434 and when the said auto reached near the house of One Sangam Anjaiah in Bayyaram Village, one Tractor-cum-Trailer bearing No.AP 20 AD 4697 and 4696, owned by respondent No.1 and insured with respondent No.2, appellant herein, being driven by its driver in

a rash and negligent manner at high speed, lost control over the tractor and dashed the auto, due to which, the petitioner sustained multiple fractures all over the body. Immediately after the accident, the petitioner was shifted to Mamatha General Hospital, Khammam and from there to NIMS Hospital, Hyderabad. Since the accident occurred due to rash and negligent driving of the driver of the Tractor-Trailer, the petitioner laid the claim against the respondent Nos.1 and 2, who are the owner and insurer of the offending vehicle. During pendency of the claim-petition, respondent No.1 died and his legal heir was brought on record as respondent No.3.

4. Considering the claim, counter filed by the appellant herein and also the oral and documentary evidence brought on record, allowed the O.P. in part awarding a sum of Rs.1,99,224/- towards compensation with interest at 7.5% per annum. Challenging the same, the appellant-Insurance Company filed the present appeal.

5. Heard and perused the record.

6. A perusal of the impugned order discloses that the Tribunal having framed Issue No.1 as to whether the accident took place due to the rash and negligent driving of the Tractor

bearing No.AP 20 AD 4697 and Trolley No.AP 20 AD 4696 by its driver, considering the evidence of P.W.1 coupled with the documentary evidence i.e., Ex.A1, F.I.R. and Ex.A2, charge sheet, has categorically observed that the accident occurred due to the rash and negligent driving of the driver of the Tractor-Trailer and has answered the issue in favour of the petitioner and against the respondents. Therefore, I see no reason to interfere with the finding of the Tribunal in holding that the accident occurred due to the rash and negligent driving of the driver of the Tractor-Trailer.

7. Insofar as the quantum of compensation is concerned, the doctor, who treated the petitioner, was examined as P.W.2. P.W.2 in his evidence deposed that the petitioner has sustained closed fracture shaft of left femur, closed fracture both bones right leg, Grade-II compound left leg both bones fracture, Grade-II compound fracture both bones right forearm and blunt injury on abdomen. P.W.2 further deposed that the petitioner underwent operation on 01.04.2013 with interlocking nailing left femur plus interlocking nailing left tibia. On 08.04.2013 the petitioner was again operated with interlocking nailing right tibia plus plating both bones right forearm and the petitioner

was discharged on 13.04.2013. Therefore, after considering the nature of injuries sustained by the petitioner, treatment undergone by him, amount spent by the petitioner for his treatment, pain and suffering, mental agony, future treatment and extra nourishment, the Tribunal has awarded just compensation, which needs no interference by this Court.

8. Accordingly, the M.A.C.M.A. is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

21.10.2022
tsr

SMT. M.G.PRIYADARSINI, J