

THE HON'BLE SRI JUSTICE PULLA KARTHIK

M.A.C.MA. No.264 of 2019

JUDGMENT:

This Motor Accidents Civil Miscellaneous Appeal is filed by the insurance company, aggrieved by the orders passed in MVOP No.189/2011, dated 28.02.2018 on the file of Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Rangareddy District at L.B.Nagar, (for short "the Tribunal"), wherein the learned Tribunal has allowed in part with proportionate costs and awarded an amount of Rs.15,00,000/- as compensation.

2. The brief facts of the case are as follows:

On 8.10.2009, the petitioner/respondent along with one B.Venkat Reddy were proceeding from Suryapet from Choutuppal in a Maruthi car bearing No.AP11 G 6125 and when they reached NTR Nagar colony outskirts of Aayatipamula village, Kattangur Mandal, Ranga Reddy District at about 8.30 PM, one lorry bearing No. AP24 X 4568 came in a rash and negligent manner and at high

speed in wrong direction and dashed against Maruthi Car, as a result, the car turned turtle, due to which the petitioner and Venkat Reddy sustained multiple bleeding injuries all over the body and car was completely damaged.

The petitioner sustained the following injuries namely:

1. Fracture of dislocation of right hip with femur head fracture right Pipkin's type-III,
2. Fracture of right knee,
3. Fracture of right shoulder,
4. Injury of right side of head,
5. Simple injuries all over the body.

3. Immediately after the accident the petitioner was shifted to Kamineni hospital and there from he was shifted to Sunshine hospitals for joint replacement orthopaedics and joined in the hospital on 09.10.2009 and obtained treatment from Dr.Gurava Reddy and the doctor found that the petitioner sustained fracture dislocation of right hip with femur, head fracture right pipkin's type-III, fracture of right knee and fracture of right shoulder and treated the

petitioner/respondent herein right total hip replacement metal on metal on 12.10.2009. It is pleaded that the petitioner/respondent herein is also advised for physiotherapy for a period of one year for that he has spent huge amounts. While discharging the petitioner/respondent herein was issued emergency admission certificate and also issued essentiality certificate showing the petitioner/respondent herein spent Rs.2,95,279.05/-. It is further pleaded that the petitioner/respondent herein also spent amount of Rs.1,00,000/- towards transportation, attendant charges, doctor's fees, extra nourishment and other expenses. Still the petitioner/respondent herein is taking treatment as out-patient and attending for physiotherapy regularly for that the petitioner/respondent herein has to spend more than Rs.3,00,000/- in future.

4. The 2nd respondent was set exparte before learned Tribunal.

5. The appellant/insurance company filed counter before learned Tribunal stating that the driver of the crime lorry bearing no. AP24 X 4568 was not holding a valid and effective driving license at the time of accident. Therefore, the appellant/insurance company is not liable to pay any compensation and the claim made by the respondent is very high and excessive and exorbitant and requested to dismiss the petition.

6. Heard both sides.

7. The counsel for appellant contended that the award is highly excessive. The learned Tribunal failed to see that claimant is not entitled separately for injury and disability and further contended that the learned Tribunal failed to see that the respondent No.1 herein is doing the same job and not suffered any loss of earnings.

8. The learned counsel for respondent contends that the learned Tribunal after considering the evidence on record and taking into consideration of medical bills and injuries

sustained by the respondent has rightly passed an award of Rs.15,00,000/- towards compensation with interest at 9% from the date of petition i.e. 28.02.2011 till the date of realisation.

9. Having considered the rival submissions made by the parties and on perusal of the evidence on record, this Court is of the view that, the learned Tribunal has justified in passing award of Rs.15,00,000/- towards compensation and is confirmed by this Court. In so far as interest part is concerned, this Court is of the view that it is appropriate to grant 7.5 % rate of interest in this case.

10. With these observations Motor Accidents Civil Miscellaneous Appeal is disposed of. The rate of interest awarded by the learned Tribunal is modified from 9% to 7.5%. There shall be no order as to costs.

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Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE PULLA KARTHIK

Date:
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