

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.1401 of 2016

JUDGMENT :

This appeal is filed by the Insurance Company aggrieved of the order and decree dated 01.10.2015 in M.V.O.P.No.55 of 2011 on the file of the Chairman, Motor Accident Claims Tribunal-cum-Additional District Judge, Nizamabad.

2. According to the petitioner, on 08-10-2010 the petitioner was riding the scooter bearing No. AP.25.F.1787 in a slow and cautious manner and one Gaini Gangaram was traveling on the said scooter as pillion rider from Varni to Maddelacheruvu and at about 12.30 p.m. when they reached the limits of Nasrullabad, one lorry bearing No. PB 05 G 4901 being driven by its driver came in a rash and negligent manner with high speed on the wrong side of the road and dashed their scooter, due to which both of them fell down from the scooter and the lorry ran over them, due to which both sustained multiple and grievous injuries. Immediately the petitioner was shifted to Government Area Hospital, Banswada in 108 Ambulance and thereafter to a private hospital at Nizamabad. He underwent surgery and steel rod

was implanted and he spent Rs.1,00,000/- towards medical expenses and treatment. Due to the injuries, he became permanently disabled and unable to attend his regular duties. Thus, the petitioner has claimed compensation of Rs.1,50,000/- under various heads.

3. Respondent No.1 remained ex parte; Respondent No.2 filed counter disputing the manner of accident and the nature of injuries sustained by the petitioner. It is further contended that the compensation claimed by the petitioners is highly excessive.

4. Based on the above pleadings, the Tribunal framed the following issues:

1. Whether the accident has taken place due to rash and negligent driving of lorry bearing No. PB 05 G 4901 by its driver?
2. Whether the petitioner is entitled for compensation, if so, to what amount and against whom?
3. To what relief?

5. In order to prove their case, PW.1 was examined and Exs.A1 to A4 were marked. On behalf of the respondent No.2, no witnesses were examined and no document was marked.

6. The Tribunal on considering the oral and documentary evidence available on record, partly allowed the O.P., awarding a total compensation of Rs.65,000/- along with costs and interest @ 7.5% per annum from the date of petition till the date of realization against the respondent Nos.1 and 2 jointly and severally.

7. Heard the learned Standing Counsel for the appellant-Insurance Company and the learned counsel for the petitioners-respondent Nos.1 to 3 herein. Perused the material available on record.

8. The learned Standing Counsel for the appellant-Insurance Company contended that the Tribunal erred in holding that the accident occurred due to the rash and negligent driving of the driver of the lorry and that the Tribunal grossly erred in believing the charge sheet. It is further contended that the compensation granted by the trial court is excessive. Accordingly, prayed to set aside the impugned order in the O.P.

9. The learned counsel for the respondent No.1/claimant contended that after appreciating the entire evidence available on record, the learned Tribunal has granted reasonable compensation and the same needs no interference by this Court.

10. With regard to the manner of accident, except stating that the rider of the scooter drove the vehicle in rash and negligent manner and caused the accident, there is no rebuttal evidence produced by the respondent No.2-Insurance Company in support of their contention. Further the police after thorough investigation filed charge sheet against the driver of the lorry. However, considering the evidence of PW.1 coupled with documentary evidence available on record, the Tribunal rightly held that the accident occurred due to rash and negligent driving of the driver of the lorry.

11. Coming to the quantum of compensation, according to the petitioner, PW-1 filed certified copy of injury certificate which shows that he sustained one grievous injury and two simple injuries. Therefore, considering the evidence of PW-1 coupled with the documentary evidence available on record,

the Tribunal has awarded an amount of Rs.25,000/- for one grievous injury, Rs.15,000/- for simple injuries, Rs.10,000/- towards pain and suffering, Rs.10,000/- towards extra nourishment and Rs.5,000/- towards transportation charges. Thus in all the petitioner is awarded an amount of Rs.65,000/- under all counts, which is just and reasonable in my considered view. Thus, there are no valid grounds to interfere with the findings of the Tribunal on this aspect.

12. With regard to the liability, petitioners filed copy of insurance policy which was marked as Ex.A4 to prove that the lorry was insured with the respondent No.2 and the policy was in force as on the date of accident. Further as there is no rebuttal evidence produced by the respondent No.2-Insurance Company, the Tribunal rightly held that the respondent Nos.1 and 2 are jointly and severally liable to pay compensation to the petitioner. Therefore, in view of the above discussion, this Court is of the opinion that there are no valid grounds to interfere with the cogent findings given by the Tribunal and the appeal is liable to be dismissed.

13. The appeal is devoid of merit and it is accordingly dismissed.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE M.G.PRIYADARSINI

05.12.2022

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