

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No. 3517 of 2014

JUDGMENT:

Being dissatisfied with the order and decree passed by the Chairman, Motor Accident Claims Tribunal-cum-II Additional Chief Judge, city Civil Courts, Hyderabad in O.P.No.957 of 2012 dated 20.05.2014, the appellant/Insurance Company has filed the present appeal.

2. For the sake of convenience, the parties have been referred to as arrayed before the Tribunal.

3. Brief facts of the petitioner's case are that on 20-02-2012 at about 10-45 a.m. the petitioner was proceeding on his motorcycle bearing No. AP.01.AD.0493 and when he reached near Shiva Sai Rice Mill at Indaram Village, lorry bearing No. TN.28.AC.1891 came from his back in rash and negligent manner at high speed and dashed his motorcycle, due to which he fell down from the motorcycle and received grievous injuries and was shifted to Singareni Area Hospital at Godavarikhani and thereafter he was shifted to Global Hospital, Hyderabad where he took treatment as in-patient and underwent

operation and spent a sum of Rs.50,000/- for his treatment. Thus, he claimed compensation of Rs.20,00,000/- under various heads.

4. 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 and the treatment taken by him.

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

1. Whether the accident took place due to rash and negligent driving of the vehicle bearing No. TN.28.AC.1891 causing injuries to the petitioner?
2. Whether the petitioner is entitled for compensation, if so, to what extent and from whom?
3. To what relief?

6. In order to prove the issues, PWs.1 to 3 were examined and Exs.A1 to A13 got marked on behalf of the petitioner. On behalf of respondent No.2, no witnesses were examined and no document was marked.

7. Considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.19,00,098/- towards compensation to the appellant-claimant against the respondent Nos.1 and 2 jointly and severally, along with costs and interest @ 7.5% per annum from the date of petition till the date of deposit.

8. Heard the learned Standing Counsel for the appellant-Insurance Company and the learned Counsel for the respondent No.1/claimant. Perused the material available on record.

9. The learned Standing Counsel for the appellant-Insurance Company contended that the decree of the Tribunal is contrary to law, weight of evidence and probabilities of the case; that there was no negligence on the part of the driver of the offending vehicle; that the Tribunal has erred in fastening the liability on the appellant-Insurance Company and the amount awarded is exorbitant. Accordingly, prayed for setting aside the impugned order in the O.P.

10. The learned Counsel appearing on behalf of respondent No.1-claimant submitted that the Tribunal after considering the oral and documentary evidence available on record, has awarded just and

reasonable compensation and the same needs no interference by this Court. Therefore, the learned counsel sought for dismissal of the appeal.

11. With regard to the manner of accident, though the learned Standing counsel for the Insurance Company pleaded that there was no negligence on the part of the driver of the offending vehicle, as there is no oral or documentary evidence was produced by the Insurance Company to prove the negligence on the part of the claimant, considering the evidence of PW-1 coupled with the documentary evidence produced by him, the Tribunal rightly held that the accident occurred due to the rash and negligence on the part of the driver of the offending lorry.

12. With regard to the quantum of compensation is concerned, according to the petitioner, in the said accident he sustained grievous injuries and was shifted to Singareni Area Hospital, Godavarikhani and from there he was shifted to Aware Global Hospital, Hyderabad, where he took treatment as inpatient and underwent operation and his left leg below the knee was amputated and he is suffering with permanent disability at 50%. Prior to the accident, he was working as

Coal Filler in IK-IA Mine of Singareni Collieries Company limited at Srirampur Mining Area and getting income of Rs.30,000/- per month and due to the said disability, he was appointed as General Mazdoor (Surface) S & PG Department and was getting Rs.22,578/- per month and he lost promotion job.

13. According to PW-2, Consultant Orthopedic Surgeon at Global Hospital, the claimant sustained severe crush injury in the left leg, foot and underwent surgery and his left leg below knee was amputated and debridement of left below knee amputation stemp was done on 12.3.2012 and he is suffering with disability 60%.

14. PW-3-Deputy General manager in IK-1A Incline deposed that the petitioner by way of demotion in service, got less income of Rs.6,732/- per month which is equal to Rs.80,784/- per annum. The Tribunal rightly taken the loss of income at Rs.6,732/- per month and by applying multiplier at '22' (left over service of the petitioner) awarded an amount of Rs.17,77,248/- towards loss of income. Further the Tribunal also awarded an amount of Rs.1,19,850/- towards fixation of artificial leg, Rs.1,500/- towards transportation and Rs.1,500/- towards extra nourishment. Thus in all the Tribunal

awarded an amount of Rs.19,00,098/- which is just and reasonable. Under these circumstances, without adducing any rebuttal evidence, the contention of the learned counsel for the appellant/Insurance Company cannot be sustained and it is hereby rejected. Therefore, in view of the above discussion, this Court is of the opinion that the Tribunal has rightly awarded compensation to the claimant/respondent No.1 and there are no grounds to interfere with the cogent findings given by the Tribunal and the appeal is liable to be dismissed.

15. In the result, the M.A.C.M.A. is dismissed. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

M.G.PRIYADARSINI,J

19.10.2022
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