

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY THE THIRTY FIRST DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 20 OF 2009

Appeal Under Section 173 of Motor Vehicles Act against the Order and Decree in O.P.No.467 of 2005 dated 10/11/2008 on the file of the Court of the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge (FTC) Adilabad.

Between:

Shaik Javeed, S/o. Naseer Business R/o. Tatiguda Locality, District Adilabad.

...Appellant

AND

1. V.Sundhar Raju, S/o. K.V.S.Maniar, aged about major Business and Owner of Toyota Qualis B.No. AP 10 A E 6197 R/o. H.No. 96, Road No. 3, Trimurthy Colony, Mahendra Hills, Hyderabad,
2. The New India Assurance Company Limited, Rep by its Divisional Manager, Divisional Office, IIIrd M.G.Road, Hyderabad.

...Respondents

Counsel for the Appellant(s): Sri. S.Chandrasekhar

Counsel for the Respondents: Sri. P.Harinath Gupta

The Court made the following: Judgment

THE HON'BLE SRI JUSTICE K.SURENDER

M.A.C.M.A.No.20 of 2009

JUDGMENT:

The appellant/claimant filed the present appeal as he was unsuccessful to seek compensation in O.P.No.467 of 2005 on the file of the Chairman, Motor Accident Claims Tribunal-cum-II Addl. District Judge (ITC) at Adilabad (Fast Track Court), Nizamabad.

2. Heard both sides and perused the entire material on record.

3. The claimant has filed claim petition seeking compensation of Rs.1,00,000/- on account of the injuries sustained by him in the accident. The Tribunal had assessed the compensation at Rs.36,000/-.

4. The case of the claimant is that while himself along with his wife were going on a motorcycle, the offending vehicle which is a Toyota Qualis came at high speed in a rash and negligent manner and hit the motorcycle from behind, resulting in falling down of claimant and sustaining injuries.

5. The Tribunal found that though it is the case of the claimant that the Qualis vehicle bearing No.AP 10AE-6197 was responsible for the accident, however, denied to grant compensation on the ground that negligence was not proved on the part of the driver of Qualis vehicle.

6. Learned counsel for the appellant would submit that in the FIR itself, it was mentioned that the Qualis vehicle was responsible for the accident, however, the final report of the investigation was not filed before the Tribunal. That in itself would not disentitle the claim of the claimant since the petition was filed under Section 163-A of the M.V.Act.

7. In a claim petition filed under Section 163-A of the M.V.Act, proof of 'fault' is dispensed with. Admittedly, the accident happened in between Qualis vehicle and two wheeler on which, the claimant was going. The claimant has chosen to prosecute Qualis vehicle owner and its insurer since the driver of Qualis vehicle was at fault. However, dispensing the proof of who was at fault, compensation can be granted under Section 163-A of the M.V.Act.

8. Accordingly, this Court deems it appropriate to grant compensation of Rs.36,000/- as arrived at by the Tribunal.

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by modifying the order of the Tribunal dated 10.11.2008 in O.P.No.467 of 2005 to the extent of finding of liability of respondents is concerned and the claimant is granted compensation of Rs.36,000/-, as hereunder:

(a) The compensation amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization.

(b) Respondents shall deposit the amount within a period of (8) weeks from the date of receipt of copy of judgment. On such deposit, claimant is entitled to withdraw the entire amount without furnishing any security.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

SD/-P.PADMANABHA REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge (FTC) Adilabad. (with records if any)
2. One CC to Sri. S.Chandrasekhar, Advocate [OPUC]
3. One CC to Sri. P.Harinath Gupta, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT
DATED:31/07/2024

JUDGMENT
MACMA.No.20 of 2009



M.A.C.M.A. IS PARTLY ALLOWED.

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for
14/10/24

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Appeal Under Section 173 of Motor Vehicles Act against the Order and Decree in O.P.No.467 of 2005 dated 10/11/2008 on the file of the Court of the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge (FTC) Adilabad.

ORDER : This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the case and upon hearing the arguments of Sri S.Chandra Sekhar, Advocate for the appellant and of Sri P.Harinath Gupta, Advocate for Respondent.

This Court doth order and decree as follows:

1. That the M.A.C.M.A. No.20 of 2009 be and hereby is partly allowed;
2. That by modifying the order of the tribunal dated 10/11/2008 in O.P.No.467 of 2005 to the extent of finding of liability of respondents is concerned and the claimant is granted compensation of Rs.36,000/- as hereunder;

- a) That the compensation amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization;
 - b) That the respondents shall deposit the amount within a period of (8) weeks from the date of receipt of copy of Judgment;
 - c) That on such deposit, claimant is entitled to withdraw the entire amount without furnishing any security;
3. That save as aforesaid, the decree of the tribunal shall stand confirmed in all other respects; and
 4. That there be no order as to costs in this appeal.

SD/-P.PADMANABHA REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge (FTC) Adilabad.
2. Two CD Copies

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HIGH COURT
DATED:31/07/2024

DECREE
MACMA.No.20 of 2009

M.A.C.M.A. IS PARTLY ALLOWED.

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