

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

MACMA.No.2201 OF 2006

JUDGMENT:

This appeal is preferred by the appellant/claimant against the order dated 02.08.2006 passed in O.P. No.9 of 2004 by the Motor Accidents Claims Tribunal (I Additional District Judge) at Mahabubnagar.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that on 17.05.2003, at about 8 pm., he came near Milk Chilling Centre, Narayanapet, then the offending vehicle came in a rash and negligent manner and dashed the claimant. As a result, he received grievous injuries on his right parietal region and right foot and other injuries. He sustained fracture to his skull which resulted in heavy bleeding. He became unconscious and was shifted to the Government Hospital, Narayanapet and on the advice of the doctors, he was shifted to private nursing home at Hyderabad. For the said injuries treatment, he claimed to be spent about an amount of Rs.50,000/- but so far he was not recovered completely. Hence, he filed the claim petition claiming compensation for an amount of Rs.1,00,000/- against the respondents.

4. In the claim petition, the 2nd respondent remained *ex parte*. The 1st respondent filed separate counter denying all the claim petition allegations and prayed to dismiss the claim petition.

5. After considering the oral and documentary evidence, P.W.1 and Exs.A-1 to A-6, on record, the Tribunal came to the conclusion that the claimant failed to prove his case against the respondents 1 and 2 and dismissed the claim petition. Aggrieved by the said order, the appellant/claimant filed the present appeal.

5. Heard.

6. The claimant filed the claim petition on the ground that the accident occurred due to the rash and negligent driving of the offending vehicle and he sustained grievous injuries and he spent an amount of Rs.50,000/- for treatment. The said allegations were not proved before the Tribunal and hence, it dismissed the claim petition. But admittedly, as per charge sheet, Ex.A-3, it is a case of accident and subsequently the accused was taken into custody and he was remanded. It is to be noted here that but for the no reason nobody would come forward to go to jail accepting the guilt. In view of the charge sheet, this Court considers that the accident occurred with the crime vehicle and the claimant sustained injuries.

7. Insofar as awarding the quantum of compensation is concerned, Ex.A-2, wound certificate, which shows that the claimant suffered fracture of skull on the right parietal bone and other grievous injuries and it also shows that the claimant was referred to the Government Hospital, Mahabubnagar on 19.05.2003, where C.T. scan was taken and scalp fracture has been confirmed, has to be taken into consideration. Since the claimant suffered grievous injuries, fracture of skull, an amount of Rs.25,000/- is awarded and another Rs.10,000/- is awarded towards pain an suffering and for extra nourishment. Though the claimant claimed an amount of Rs.50,000/- towards medical bills the same are not proved hence, the said claim is dismissed.

8. In the result, this appeal is partly allowed awarding total compensation of Rs.35,000/- (25000+10000) with proportionate costs and interest at the rate of 7.5% per annum from the date of petition till its realization. Since the respondents 1 and 2 are the owner and insurer of the offending vehicle, respectively, they are jointly and severally liable to pay the said compensation, within a period of two months, from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the same. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 29.11.2019
LSK

