

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.642 OF 2008

AND

CROSS OBJECTIONS (SR) No.57974 of 2008

COMMON JUDGMENT:

This appeal is preferred by the appellant/insurance company questioning the order of the X Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad (for short, the trial Court) in O.P.No.3109 of 2004 dated 11.12.2006. The 1st respondent/claimant also filed cross-objections being aggrieved by the order of the trial Court.

2. The brief facts of the case are that on 24.10.2004 at about 6.30 A.M., when the 1st respondent/petitioner/claimant along with his friend going to his friend's house at Nampally on Yamaha vehicle bearing No.AP 10C 2843 and from there they left to go to Dilsukhnagar and while reaching Nampally to G.P.O. Road, one RTC bus bearing No.AP 28U 6255 was coming from opposite direction which was driven by its driver in a rash and negligent manner and came on wrong side and dashed to the 1st respondent's vehicle in high speed, due to which the 1st respondent fell down and received grievous injuries. Immediately after the accident, the 1st respondent was shifted to Anurag Orthopedic and Multi Specialty Hospital wherein the 1st respondent was admitted as inpatient. Abids Police Station registered a case in Crime No.419 of 2004 under Section 337 of IPC and later it was altered to Section 338 of IPC. The 1st respondent was hale and healthy at the time of accident. Due to the accident, he has become permanently disabled. The accident occurred only due to rash and negligent driving of driver of RTC bus. The 2nd respondent is the owner of the crime vehicle and the 3rd

respondent had taken the said bus on hire and the appellant/insurance company and respondents 2 & 3 are jointly and severally liable to pay compensation to the 1st respondent/claimant.

3. In the claim petition, the 2nd respondent remained *ex parte* and the appellant/insurance company filed a counter denying the allegations and contended that the amount claimed by the claimant is highly excessive and that it is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the 1st respondent and awarded total compensation of Rs.2,00,000/-under various heads, with interest at the rate of 7.5% per annum. Aggrieved by the said order, the appellant/insurance company filed the present appeal and the 1st respondent/petitioner/claimant filed the cross objections.

5. Heard.

6. The only point which is raised in this appeal during the course of argument is that Ex.A-11-Disability Certificate is indicating disability of 15% and the author of the certificate has not been examined. On the weightage of P.W.2 – Doctor evidence, the Court came to a conclusion that the injuries and the disability caused is genuine and it cannot be ruled out.

7. A perusal of the order reveals that the trial Court passed a well considered order by taking into consideration all the aspects. Therefore, I see no reason to interfere with the order of the trial Court and the appeal and the cross-objections are liable to be dismissed.

8. Accordingly, the Motor Accident Civil Miscellaneous Appeal and the Cross Objections are dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 17th June, 2019

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