

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A. No.618 OF 2000

JUDGMENT:

This appeal is filed by the appellant/2nd respondent/insurance company aggrieved by the Order and Decree dated 17.11.1999 passed in O.P.No.77 of 1996 by the Chairman, Motor Accidents Claims Tribunal (II Additional District Judge), At Nalgonda (for short, the Tribunal).

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 the petitioner is the owner of the tractor and trailer bearing No.APL 5008 and 5009. On 08.04.1995 at about 10.99 p.m., the brother of the petitioner Gopi Srisailam was driving the tractor from Choutuppal to Kaithapuram after getting it repaired at Choutuppal and at Kaithapuram bus stage suddenly a car bearing No.AP-9-R-T/R 1976 belonging to the 1st respondent, coming from Hyderabad side dashed to the tractor and trailer. Consequently, the driver and his brother sustained injuries and the tractor was broken into pieces. The cabin was broken. The petitioner has spent Rs.80,000/- for repairs of tractor. They were getting Rs.3,000/- per month on use of tractor. Hence, the petitioner filed the claim petition claiming compensation of Rs.1,00,000/-, payable by both the respondents, being the owner and insurer of the offending car.

4. Before the Tribunal, the 1st respondent remained *ex parte*. The 2nd respondent filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-5 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending car and awarded total compensation of Rs.49,000/- i.e., Rs.40,000/- towards damages and Rs.9,000/- towards hire charges, with interest @ 12% per annum from the date of petition till the date of payment, payable by both the respondents. Aggrieved by the same, the appellant/2nd respondent/insurance company filed the present appeal.

6. The order passed by the Tribunal is just and proper in the light of the Apex Court judgments with regard to granting of compensation. However, with regard to the interest awarded by the Tribunal @ 12% per annum from the date of petition till the date of payment, which is very excessive, in view of the several decisions of the Apex Court, this Court feels that it would be just and appropriate if the interest granted by the Tribunal @ 12% is reduced to 7.5% on the awarded amount of Rs.49,000/-. Except

the said modification, the remaining operative portion of the impugned order is confirmed.

7. In the result, the Civil Miscellaneous Appeal is partly allowed by reducing the interest from 12% to 7.5% on the compensation amount of Rs.49,000/- awarded by the Tribunal, from the date of petition till the date of realization, payable by both the respondents. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 6th December, 2019

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