

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**M.A.C.M.A.NO.1664 OF 2005**

**JUDGMENT:**

This appeal is preferred by the Insurance Company aggrieved by the award, dated 30.03.2005 in O.P.No.608 of 2000 passed by the Chairman, Motor Accident Claims Tribunal-cum-V Addl. District Judge (FTC), Khammam at Kothagudem (for brevity 'the Tribunal').

2. Brief facts are that on 21.04.1999 at about 6.00 hours, the claimant boarded the tractor and trailer bearing No. AP 36 T 5509 and 5510 in order to go to Tekulapally along with one Raju. When the vehicle reached 6<sup>th</sup> mile thanda on B.T. road, the driver of the vehicle drove it in a rash and negligent manner with high speed and suddenly applied brakes, as a result, the claimant fell down and the trailer ran over on him, due to which, he sustained the following injuries;

- 1) Central fracture dislocation left hip.
- 2) Fracture pubic rami right side
- 3) Large abrasion on back 15 x 10 cm.
- 4) Haematoma all over the back.

Thus, the claimant filed the claim petition claiming compensation of Rs.1,00,000/- for the injuries sustained by him.

3. To substantiate the claim, on behalf of the claimant, P.Ws.1 and 2 were examined and Exs.A1 to A6 were marked. On behalf of the Insurance Company, R.W.1 was examined and Ex.B1 was marked.

4. The Tribunal on consideration of entire oral and documentary evidence available on record, awarded compensation of Rs.65,000/- with interest at 9% p.a. from

the date of petition till the date of realization with proportionate costs. Challenging the same, this appeal is preferred by the Insurance Company.

5. Admittedly, on the date of the accident, the vehicle was insured with the Insurance Company and the claimant was working as a coolly at that particular moment for loading and unloading the consignment, which was under transit by the crime vehicle. Due to the rash and negligent driving, the claimant fell down on the road and the trailer ran over him, due to which, he sustained the above injuries.

6. In view of the above, it is clear that the claimant is not an unauthorized passenger. On one hand, he can be considered as a coolly and on the other hand, he becomes the third party since the vehicle ran over when he was on the road and thus, Act policy applies. The amount awarded by the Tribunal is just and reasonable and the same needs no interference and thus, the appeal filed by the Insurance Company is liable to be dismissed.

7. Accordingly, the appeal is dismissed confirming the award, dated 30.03.2005 in O.P.No.608 of 2000 passed by the Chairman, Motor Accident Claims Tribunal-cum-V Addl. District Judge (FTC), Khammam at Kothagudem. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

**T.AMARNATH GOUD, J**

**DATED: 17-09-2019**

Hsd

