THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2350 OF 2005

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 06.06.2005 passed in M.V.O.P.No.100 of 2004 by the Principal Motor Accidents Claims Tribunal (Principal District Court), at Warangal (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 on 15.06.2002 night when the petitioner coming from Vijayawada, in the outskirts of Fathepuram, the 1st respondent, who is the driver of the car bearing No.AP 9AG 2236, drove in a rash and negligent manner and in order to avert the collusion with the lorry coming in the opposite direction, he dashed to a culvert, as a result, the petitioner received multiple injuries and she was treated in Rohini Hospital as inpatient for six days and thereafter, took treatment and spent money for treatment. Hence, the petitioner filed the claim petition claiming compensation of Rs.3,00,000/-, payable by both the respondents jointly and severally, being the owner and insurer of the offending car.

4 Before the Tribunal, the 1st respondent remained *ex parte.* Respondent No.2 filed 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 to 3 and the documentary evidence of Exs.A-1 to A-10 & Ex.B-1, the Tribunal dismissed the claim petition on the ground that the petitioner, who is no other than the wife of the 1st respondent, who is the owner of the offending car, cannot be said to be a passenger or a third party to cover the liability under the policy and the learned counsel for the petitioner could not show any other judgment fastening the liability to the insurance company and the petitioner cannot herself claim any compensation against the 1st respondent and when once the terms of the policy and the requirements of the law are against the petitioner, she cannot claim any compensation. Aggrieved by the said order, the appellant filed the present appeal.

6. Heard Sri G.Anandam, learned counsel for the appellant and Sri E.Venu Gopal Reddy, learned standing counsel for the 2nd respondent/insurance company. Perused the material available on record.

7. Having regard to the facts and circumstances of the case, it is noticed that the accident has taken place on 15.06.2002 and the claimant was injured with grievous injuries and got treated. On perusal of the documentary evidence and the medical records, as per Ex.A-5, the claimant sustained two simple injuries and one grievous injury. Since the offending

care is covered under package policy and the claimant being an inmate of the offending car, she is entitled for the compensation. Hence, this Court feels that it would be just and proper if an amount of Rs.20,000/- towards injuries and Rs.40,000/- towards medical expenses are awarded to the appellant. Therefore, the total compensation comes to Rs.60,000/- (Rs.20,000/- + Rs.40,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed by awarding the compensation amount of Rs.60,000/- with interest @ 7.5% per annum from the date of petition till the date of realization, payable by both the respondents jointly and severally. The respondents are directed to deposit the compensation amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the entire amount. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

T.AMARNATH GOUD, J

Date: 27th November, 2019

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