

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1519 of 2006

JUDGMENT:

This appeal is filed by the appellant-insurer aggrieved by the Order and Decree dated 29-11-2005 passed in O.P.No.970 of 2002 by the XII Additional Chief Judge, City Civil Court, Hyderabad (F.T.C.) (for short, the Trial Court).

2. Brief facts of the case are that the claimant filed the claim petition against the appellant and 2nd respondent claiming compensation of Rs.1.50 lakhs for the injuries sustained by him in the accident occurred on 08-02-2002 due to the rash and negligent driving of the driver of the car bearing No.ADM 9292 when he is proceeding in the same vehicle at Bowenpally.

3. In the claim petition, the appellant-insurer 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.

4. After considering the oral and documentary evidence on record, the trial Court came to the conclusion that the accident occurred due to the rash and negligent driving on the part of the driver of the crime vehicle only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.44,500/- under

various heads, payable by the respondents jointly and severally, with interest at 9% per annum through out.

5. Aggrieved by the same, the appellant/insurer filed the present appeal.

6. Heard Sri E.Venugopal Reddy, learned Standing Counsel for the appellant-insurer and the learned counsel for the 1st respondent/claimant.

7. Admittedly, the crime vehicle is insured with the appellant-insurer and the claimant was traveling in the vehicle and the same is covered under Act policy. Within the meaning of the policy conditions, the claimant is not covered under the Act policy since he is not a third party.

8. In view of the same, the liability cannot be fastened on the insurance company and accordingly, the appellant-insurer is exonerated from the liability. However, since the vehicle covered with the policy, the insurance company is directed to pay the amount awarded by the trial Court and the same is recovered from its owner of the vehicle following the decision of the Supreme Court in **Manuara Khatun & Others v. Rajesh Kumar Singh & Others**¹.

9. Insofar as interest is concerned, this Court feels awarding 9% interest is excessive and accordingly, the same is reduced to 7.5%.

¹ (2017) 4 S.C.C. 796

10. With the above observation, the appeal is allowed. No costs.

11. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 06.11.2019
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