THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.Nos.576 and 672 OF 2005

COMMON JUDGMENT:

Since both the appeals arise out of the order passed in O.P.No.412 of 1999, dated 14-08-2003, on the file of the Chairman, Motor Vehicle Accidents Claims Tribunal (I Additional District Judge), Karimnagar, (for short, the Tribunal), they are being disposed of by this common judgment.

2. M.A.C.M.A.No.576 of 2005 is filed by the Insurance Company stating that it is not liable to pay the compensation as the owner has already compensated the injured, while M.A.C.M.A.No.672 of 2005 is filed by the claimant in the O.P. seeking enhancement of the compensation.

3. For the purpose of convenience, the parties are hereinafter referred to as they are arrayed in the O.P.

2. The brief facts of the case are that on 01.03.1998, while the petitioner was returning from I-Incline Colony of SCC, where he was working as Coal Cutter, to Power House Colony, Godavarikhani, on his cycle, and when he reached T-road at RTC bus depot, a lorry, bearing No.AP 21 T 1446, came in the opposite direction in a rash and negligent manner at high speed and hit the petitioner, as a result of which, he sustained grievous injuries. Despite taking necessary treatment, the petitioner became a permanently disabled person, as result of such accident and his employer declared him as medically unfit and was terminated from service. The injuries sustained by him are due to rash and negligent driving of the crime vehicle by its driver, the first

respondent. The second respondent is the owner of the lorry and the third respondent is the insurer of the crime vehicle. Hence, all the respondents are liable to pay the compensation sought for.

3. In the claim petition, the first and second respondents remained *ex parte*. The third respondent filed 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 crime vehicle and awarded total compensation of Rs.6,72,571/- under various heads, along with costs and interest at the rate of 9% per annum. Aggrieved by the said order, both the petitioner and the insurance company filed the present appeals.

5. Heard.

6. A perusal of the order reveals that the Tribunal passed a well considered order by taking into consideration all the aspects, and as against the claim of Rs.10,00,000/-, the Tribunal awarded an amount of Rs.6,72,571/- towards compensation, along with proportionate costs and interest @ 9% per annum. The Tribunal has well considered the medical expenses, extra nourishment, attendance, pain & suffering and also loss of income and accordingly, awarded the said amount. As regards the liability of the insurance company is concerned, the Tribunal observed that the insurance company failed to adduce any evidence to establish its defence taken in the counter and it did not even file the insurance policy

pertaining to the crime vehicle and accordingly, held that the second and third respondents are liable to pay the compensation but to be indemnified by the third respondent, being the insurer of the crime vehicle. Therefore, I see no reason to interfere with the well considered findings of the Tribunal and the appeals are liable to be dismissed.

7. Accordingly, the Motor Accident Civil Miscellaneous Appeals are dismissed. No order as to costs. Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 08-11-2019

GJ