

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.2260 OF 2005

JUDGMENT:

This appeal is preferred by the appellant/petitioner/claimant questioning the order of the II Additional Chief Judge, City Civil Court, at Hyderabad (for short, the Court below) in O.P.No.2013 of 2000 dated 06.08.2004.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Court below in the original petition.

3. The brief facts of the case are that the petitioner is running a kirana shop business and out of which he is earning Rs.4,500/- per month. On 29.05.2000, the petitioner along with other members of Business Association of Peddamallareddy Village have decided to go to Tirupati and accordingly, they engaged one bus bearing No.AP 25T 2766 and on the same day at mid night 12.00 O clock, all 26 members including the petitioner boarded the said bus at their village to go to Tirupati and when the said bus reached near 406/4 milestone, on outskirts of Jadhishivanoor Village on N.H.No.7, a DCM Toyota bearing No.AP 25T 414 coming from opposite direction in high speed with rash and negligent manner dashed to the petitioner's vehicle, due to which the inmates of the mini bus sustained grievous injuries. The petitioner was admitted in the CDR Hospital and there he was treated under Jeevandata Scheme of CDR Hospitals, which enabled him to get satisfactory treatment

without any pre-payment, subject to the undertaken given by the petitioner to the said Hospital to pay a sum of Rs.1,44,659-71 Ps. incurred towards medical and hospital charges after settlement of this case. Hence, the petitioner filed the claim petition claiming compensation of Rs.5,00,000/-, payable by both the respondents, being the owner and insurer of the DCM Toyota.

4. In the claim petition, the 1st respondent remained *ex parte*. The 2nd respondent filed a counter denying the allegations and contended that the amount claimed by the claimant is highly excessive and that they are not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 to 3 and documentary evidence of Exs.A-1 to A-6 and Exs.X-1 & X-2, the Court below came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending DCM Toyota and awarded total compensation of Rs.1,65,000/- i.e., Rs.20,000/- towards fracture, Rs.20,000/- towards pain & suffering, extra nourishment, transportation and medical attendant, Rs.50,000/- towards disability and Rs.75,000/- medical expenses, with interest @ 9% per annum from the date of petition till the date of deposit, payable by both the respondents jointly and severally. Aggrieved by the said order, the appellant/petitioner/claimant filed the present appeal.

6. Heard.

7. A perusal of the order reveals that the Court below passed a well considered order by taking into consideration all the aspects and as against the claim of Rs.5,00,000/-, the Court below awarded an amount of Rs.1,65,000/- with proportionate costs and interest @ 9% per annum. Therefore, I see no reason to interfere with the order of the Court below and the appeal is liable to be dismissed.

8. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed confirming the award and decree passed by the Court below in all respects, including the rate of interest. No order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 11th November, 2019

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