

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3593 of 2005

JUDGMENT:

This appeal is preferred by the appellant/insurer questioning the order of the Motor Accident Claims Tribunal-cum-IV Additional District Judge (III FTC), Khammam (for short, the Tribunal) in M.A.T.O.P.No.320 of 2001 dated 05-08-2005.

2. Brief facts of the case are that on 20-05-1997, when the claimant along with one '*band melam*' reached the Pedamadempalli village and while they were playing music in a marriage, the tractor bearing No.AP-20T-359 which belongs to 4th respondent herein dashed against him as it was hit by another tractor bearing No.ATK 3834 which belongs to 3rd respondent herein, driven by 2nd respondent herein, as a result of which, he sustained multiple fractures and injuries to all over the body. A case was registered against Tractor driver bearing No.AP 20T 359. Hence, he filed the claim petition against the appellant and respondent Nos.2 to 4 herein claiming compensation of Rs.75,000/- for the injuries sustained by him.

3. In the claim petition, the appellant-insurer, 4th respondent-owner of the tractor bearing No.AP 20T 359, and the 5th respondent-insurer filed their counters 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.

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 tractor bearing No.ATK 3834 and held that the appellant and respondent Nos.2 and 3 are liable pay compensation of Rs.57,500/- jointly and severally, with interest at the rate of 7.5% per annum. Aggrieved by the said order, the appellant/insurer filed the present appeal.

5. Heard.

6. Learned Standing Counsel for the appellant/insurer contended that the Tribunal erred in finding fault against the appellant only since in fact, the tractor bearing No. AP-20T-359 had ran over the claimant but not the tractor bearing No.ATK 3834 and the crime was also registered against the tractor bearing No.AP-20T-359 only. Therefore, the liability may be fastened against both the drivers of the crime vehicles as there is contributory negligence on the part of both the drivers.

7. As seen from the order under impugned, I do not find any illegality or irregularity as the Tribunal gave a specific finding with regard to the negligence on the part of the driver of the tractor bearing No.ATK 3834 and this Court does not warrant any interference in the said finding. Therefore, the appeal is liable to be dismissed.

8. Accordingly, the Appeal is dismissed. No costs.

9. Miscellaneous petitions pending, if any, shall stand dismissed.

No order as to costs.

T.AMARNATH GOUD, J

Date: 28-10-2019

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