

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.2428 OF 2009

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, is preferred by the appellant/petitioner aggrieved by the order and decree, dated 23.04.2007, passed in O.P.No.2513 of 2005 by the XII Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad.

2. The brief facts of the case are that on 23.08.2005, the appellant along with others were board in Auto bearing No.AP-23-U-890 at Kamaram Village in order to go to Chegunta Village and when the auto reached Reddypally Village sivar and while taking turn to go to petrol bunk, suddenly the Santro car bearing No.AP-25-L-5701 came in opposite direction at high speed in a rash and negligent manner and dashed the auto. Due to which the petitioner along with others fell down and received injuries. The injured persons were shifted to Gandhi Hospital, where the appellant underwent operation and discharged on 26.08.2005. The appellant received grievous injuries to left leg, femur, both bones and head injury. The appellant spent Rs.15,000/- towards treatment. Prior to the accident, she used to earn Rs.3,500/- per month. The accident occurred due to rash and negligent driving of driver of 1st respondent vehicle. The 1st respondent is owner of the vehicle and 2nd respondent is its insurer, both are jointly and severally liable to pay compensation to the appellant.

3. The 1st respondent remained *ex parte*. The 2nd respondent filed counter *inter alia* contending that the vehicle was not holding

valid driving licence at the time of accident and that the 1st respondent has violated the terms and conditions of the policy; that the compensation claimed is excessive and hence, he 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 had occurred due to rash and negligent driving of driver of the crime vehicle and awarded total compensation of Rs.48,000/- under various heads, with interest at the rate of 7.5% per annum. Aggrieved by the said order, the appellant/petitioner filed the present appeal.

5. Heard the learned counsel for the appellant and the learned Standing Counsel for the 2nd respondent.

6. A perusal of the order reveals that the Tribunal by taking into consideration all the aspects, awarded an amount of Rs.5,000/- towards shock, pain and suffering and loss of amenities, Rs.35,000/- towards injuries and disability, Rs.4,000/- towards medical and incidental expenses, Rs.3,000/- towards loss of income and Rs.1,000/- towards transportation charges, food, extra nourishment etc, in all an amount of Rs.48,000/- is awarded as against the claim of Rs.1,50,000/-, with proportionate costs and interest @ 7.5% per annum. In the considered opinion of this Court, the Court below passed order after considering all aspects and there is no reason to interfere with the said order. Hence, the appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed confirming the order and decree, dated 23.04.2007, passed in O.P.No.2513 of 2005 by the XII Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

AUGUST 06, 2019

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Date : 06.08.2019

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