

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.4415 of 2004

AND

Cross Objections (SR) No.7057 OF 2005

COMMON JUDGMENT:

C.M.A.No.4415 of 2004 is filed by the insurance company and Cross Objections is filed by the claimant against the judgment and decree, dated 10.08.2004 passed in O.P.No.414 of 1998 by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad (for short 'the Tribunal).

2. Since the appeal and cross objections arise out of the same O.P, they are heard together and disposed of by way of this common judgment.

3. For the sake of convenience, the parties herein are referred to as arrayed in the Court below.

4. The brief facts of the case are that on 10.05.1998, the injured claimant was driving the jeep bearing No.AP-24-U-5424 from Armour towards Balkonda side on NH-7 very slowly and cautiously and by the time he reached near Sree Rampur Village outskirts on Hyderabad to Nagpur road, one lorry bearing No.KA-11/484, which was driven by its driver in a rash and negligent manner came on the wrong side of the road from opposite direction, dashed the jeep of the claimant, due to which his right leg and right hand are fractured and he sustained injuries on back side of the body, head and other parts of the body. He was admitted in hospital and his right leg and right hand were operated thrice and steel rods were also inserted. Due to the injuries, he lost his earning capacity and got permanent disability.

5. The Tribunal after examining the witnesses and framing the issues, allowed in part the claim of the claimant by awarding the compensation of Rs.2,12,840/- with 9% rate of interest against the claim of Rs.2,50,000/-.

6. Learned counsel for the insurance company submits that the Tribunal ought not to have believed the disability certificate issued by Dr. L. Ramulu as it is not trustworthy and there is no proof for the accident and damage and the amount awarded by the Tribunal is excessive and prayed to set aside the award passed by the Tribunal by allowing the appeal.

7. Learned counsel for the injured claimant contended that the Tribunal ought to have awarded the entire claim amount and sought for enhancement of the compensation by allowing the cross objections.

8. From perusal of the material on record, it is revealed that the claimant sustained 3 simple injuries and one grievous injury. Though the claimant has claimed disability under the head of grievous fracture injury, this Court finds that the claimant has not made out a case for consideration and with regard to evidence of PW.3 and Exs.A9 & A10 bills are concerned, the vehicle repair amounts are confirmed.

9. Having regard to the above, this Court is of the opinion that the award of the Tribunal is well considered and requires no

interference of this Court except the 9% rate of interest, which is excessive and the same needs to be reduced to 7.5%.

10. Accordingly and in the result, CMA.No.4415 of 2014 filed by the insurance company is allowed in part by reducing the rate of interest from 9% to 7.5% per annum and the Cross Objections filed by the claimant is dismissed. No costs.

Miscellaneous petitions if any shall stand closed.

Date: 18.11.2019
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T.AMARNATH GOUD, J

