

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. NO.3710 OF 2005

JUDGMENT:

This appeal is preferred by the appellant/Insurance Company questioning the Order of the Motor Accident Claims Tribunal-cum-V Additional District Judge, Miryalaguda (for short, the Tribunal) in O.P.No.1150 of 2001, dated 03.01.2005.

2. The brief facts of the case are that on 01.07.2001, the respondent No.1/claimant and others were returning in tractor bearing No.AP27D 5132 from Nagarjunasagar at about 5.30 P.M., and when the tractor reached near Nellikallu cross roads of Peddavoora, the driver of the tractor drove it in a rash and negligent manner with high speed and lost control by seeing the RTC bus, due to which, the tractor turned turtle on left side of the road, as a result of which, he sustained fracture to right leg and grievous injuries all over the body. He filed the aforesaid MVOP against owner of the tractor (respondent No.2 herein) and insurer (appellant herein), claiming compensation of Rs.1,00,000/- for the injuries sustained by him.

3. Before the Tribunal, owner of the tractor, remained *ex parte*. The appellant-Insurance Company filed its 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 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 and awarded total compensation of Rs.88,757/- under various heads, with interest at the rate of 9% per annum. Aggrieved by the said order, the appellant/Insurance Company filed the present appeal.

5. Heard.

6. A perusal of the order reveals that the Tribunal has passed the order on the strength of the evidence of PW.2, doctor, and Ex.A7, disability certificate, and also the treatment undergone by the claimant. Therefore, there are no grounds to interfere with the order passed by the Tribunal. However, in the light of the judgment of the Apex Court in **National Insurance Co. Ltd. Vs. Swaran Singh**¹, the appellant-insurance company shall pay the compensation to the claimant at the first instance and recover the same from the owner of the vehicle thereafter.

7. Accordingly, the Motor Accident Civil Miscellaneous Appeal is partly allowed to the extent indicated above. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

T.AMARNATH GOUD, J

Date: 29-08-2019

Shr

¹ (2004) 3 SCC 297