

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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M.A.C.M.A. No.747 of 2005

JUDGMENT:

Aggrieved of the order dated 22.01.2005 in O.P.No.123 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-VI Additional Metropolitan Sessions Court-cum-XX Additional Chief Judge, Secunderabad (for short, 'the Tribunal'), whereby and whereunder, a sum of Rs.9,09,648/- was granted as compensation with interest at 6% per annum, as against the claim for Rs.12,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the United India Insurance Company Limited (2nd respondent before the Tribunal) preferred the instant appeal.

2. Respondent Nos.1 to 8 herein are the petitioners, while the 9th respondent and the appellant, who are the owner and insurer of the accident vehicle, were the respondents in the original petition.

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

4. The facts in brief are that on 27.01.2002 at about 12-30 p.m., while one Y.Narsimhulu was proceeding on his scooter bearing registration No.ABY 7817 near Government I.T.I. College, a tractor bearing registration No.AP 23T 6744 with trailer bearing registration No.AP 23T 6745 driven it in a rash and negligent manner and hit the scooter, due to which, he fell down and sustained multiple injuries and he was shifted to Government Hospital, Sangareddy and from there to Gandhi Hospital, Secunderabad, and he succumbed to the injuries on the same night. The petitioners claimed that the said Y.Narsimhulu was working as a driver in Collectorate in Medak District, Sangareddy, drawing salary of Rs.7,854/- per month, and, thus, they lost their

breadwinner. Therefore, they sought Rs.12,00,000/- against the respondents 1 and 2, who are the owner and insurer of the accident vehicle respectively.

5. Before the Tribunal, the 1st respondent-owner of the accident vehicle remained *ex parte* and the 2nd respondent-Insurance Company opposed the claim raising various pleas.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry before the Tribunal, the 1st petitioner examined herself as P.W.1 besides examining two more witnesses as P.Ws.2 and 3 and marked Exs.A.1 to A.9; whereas on behalf of the 2nd respondent-Insurance Company, no witnesses were examined but a copy of insurance policy was marked as Ex.B.1 on consent.

7. The Tribunal, on appraisal of evidence, both, oral and documentary, let in by the parties, held on issue No.1 that due to rash and negligent driving of the driver of the tractor and trailer, the accident had occurred. On issue No.2, the Tribunal, making elaborate discussion on the salary drawn by the deceased, including future prospects, deducted 1/3rd of the monthly salary and arrived the contribution to the family at Rs.5,236/- per month and worked out it to Rs.62,832/- per annum as contribution to the family and applied multiplier '14' as per the table provided in the II Schedule to Section 163-A of the Act and arrived the loss of dependency at Rs.8,79,648/-.

The Tribunal further granted Rs.15,000/- towards consortium to the 1st petitioner and Rs.15,000/- towards loss of estate and love and affection, and, thus, a total sum of Rs.9,09,648/- was granted with interest at 9% per annum.

8. It is that order which is challenged by preferring the instant appeal only on the quantum of compensation granted by the Tribunal, but not on any violation of terms and conditions of the policy.

9. Heard Sri A.Ramakrishna Reddy, learned Standing Counsel for the appellant, and Sri K.L.N.Rao, learned counsel for the respondents 1 to 8 herein.

10. Perused the order under challenge and the evidence let in by the petitioners. The Tribunal has taken the age of the deceased as 42 years basing on the evidence of P.W.3 who is the Administrative Officer of the District Collectorate, Sangareddy, marking Ex.A.7, salary certificate showing gross salary at Rs.7,854/- per month as the deceased was working as driver in the Office of the District Collector, Sangareddy on the date of the accident. The Tribunal has deducted $\frac{1}{3}$ rd therefrom and worked out the reminder at Rs.5,236/- per month towards contribution to the family and applying the multiplier '14' as per the II Schedule to Section 163-A of the Act taking the age of the deceased as 42 determined the compensation as stated in the above.

Therefore, there is no merit in the stand taken by the Insurance Company that the quantum of compensation fixed by the Tribunal was on higher side. In fact, the Tribunal granted Rs.15,000/- towards consortium and Rs.15,000/- towards loss of estate and not granted any amount towards funeral expenses and transport charges. Thus, viewed from any angle, absolutely there is no merit in the appeal.

11. In the result, the appeal is dismissed confirming the order and decree dated 22.01.2005 passed by the Tribunal in O.P.No.123 of 2002. There shall be no order as to costs.

12. As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

11th February, 2015

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