

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY
M.A.C.M.A. No.894 OF 2009

JUDGMENT:

1 Assailing the judgment and award dated 18.09.2008 passed in M.V.O.P.No.302 of 2005 on the file of the Chairman, Motor Accidents Claims Tribunal-cum- District Judge Warangal, wherein and whereby an amount of Rs.11,32,856/- was awarded to the claimants as against the claim of Rs.14,55,000/-.

2 For the sake of convenience, parties to this appeal will hereinafter be referred as they are arrayed before the Tribunal.

3 The facts leading to filing of the present appeal, briefly, are as follows:

4 On 02.12.2003 at 11.00 AM one Ankari Hanumaji (hereinafter referred to as 'the deceased') boarded the Jeep bearing No.AP 1U 3891 to go to Mandamarri. When the Jeep reached Chennur bus stand near Kambojipeta Forest Quarters, the driver of the Jeep drove the same in a rash and negligent manner due to which it turned turtle. In the said accident, the deceased sustained injuries on various parts of his body and while he was being shifted to Government hospital, Mandamarri, enroute he succumbed to the injuries. In connection with the said accident, the Station House Officer, Chennur police station registered a case in Cr.No.140 of 2003 against the driver of the Jeep for the offences punishable under Sections 337 and 338 IPC. The accident occurred due to the rash and negligent driving of the driver of the Jeep. By the date of accident, the deceased was aged about 42 years and was working as Junior Assistant in MPDO, Mandamarri and used to earn Rs.8,500/- p.m. The petitioners are dependants on the income of the deceased. The Jeep bearing No.AP 1U 3891 which belongs to the first respondent was insured with respondent Nos.2

and 3. Therefore, the petitioners filed the claim petition seeking compensation of Rs.14,55,000/- from the respondents jointly and severally.

5 First respondent remained ex parte. Respondent Nos.2 and 3 filed written statement denying the material averments inter alia contending that there was no negligence on the part of the driver of the offending Jeep. The amount of compensation claimed by the petitioner under various heads is excessive and exorbitant. The driver of the Jeep was not having valid and effective driving licence as on the date of accident. Therefore, these respondents are not liable to pay compensation to the petitioners. Hence the petition may be dismissed.

6 Basing on the above pleadings, the Tribunal framed the following issue for trial:

“Whether P.1 – widow and P.2 to P.8 – minor children of the deceased – A. Hanumanji are entitled to a compensation of Rs.14,55,000/- from R.1-owner & R.2 and R.3-Insurers, for causing his death in a Motor Vehicular accident on 2.12.2003 at about 11.00 hours at Chennur Bus Stand, near Kambojipeta Forest Quarters, due to rash, negligent and high speed driving of Jeep bearing No.AP1 U 3891 by its driver?”

7 During the course of trial, on behalf of the petitioners P.Ws.1 to 3 were examined and Exs.A.1 to A.9 were marked. On behalf of the respondents R.W.1 was examined and Exs.B.1 to B.4 were marked.

8 On appreciation of the oral, documentary evidence and other material available on record, the Tribunal arrived at a conclusion that the accident occurred due to the rash and negligent driving of the driver of the Jeep bearing No.AP 1U 3891 and allowed the petition in part by awarding compensation of Rs.11,32,856/- with interest at

7.5% p.a from the date of filing of the petition till the date of realisation. Feeling aggrieved by the judgment and award, the insurance company filed the present appeal.

9 Sri Kota Subbarao, the learned counsel for the respondent Nos.2 and 3 submitted that the amount of compensation awarded by the Tribunal is on higher side.

10 Per contra, the learned counsel for the petitioners submitted that the Tribunal awarded just and reasonable compensation and hence the judgment and award passed by the Tribunal needs no interference.

11 Now the point that arises for consideration in this appeal is **“Whether the Tribunal has awarded fair, just and reasonable compensation or not?”**

12 There is no much dispute between the parties with regard to the manner of accident. The Tribunal has assigned cogent and valid reasons while coming to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending Jeep. I am fully agreeing with the finding of the Tribunal on that aspect. Having regard to the facts and circumstances of the case, I am of the considered view that the accident occurred due to the rash and negligent driving of driver of the Jeep bearing No.AP 1U 3891.

13 At the time of his unfortunate death, the deceased was aged 40 years. The Tribunal, taking into consideration the 2nd Schedule to Section 163-A of the Motor Vehicles Act, has taken the multiplier as 16. As per the testimony of P.W.3, by the date of accident, the deceased was drawing salary of Rs.8,597/- p.m. As per Ex.A.6 – Service Certificate and A.7 – Salary Certificate, the monthly gross salary of the deceased was Rs.8,597/- and the net salary was

Rs.8,097/-. By examining P.W.3 and marking Exs.A.6 and A.7, the petitioners proved the income of the deceased. Basing on the oral testimony of P.W.3 coupled with Exs.A.6 and A.7, the Tribunal has taken the monthly income of the deceased as Rs.8,577/- and Rs.1,02,924/- p.a. The deceased was a government employee as on the date of accident. In case of a government employee, the Tribunal or the Court has to take into consideration the salary of the deceased as on the date of accident. The Tribunal has applied the appropriate multiplier and deducted 1/3rd towards personal expenses of the deceased. Viewed from any angle, there are no grounds much less valid grounds to interfere with the calculations made by the Tribunal while determining the loss of dependency.

14 The Tribunal also awarded an amount of Rs.15,000/- towards consortium to the first petitioner and Rs.15,000/- towards love and affection to petitioner Nos.2 to 8 and Rs.5,000/- towards funeral expenses. The amount awarded under various heads is just and reasonable. The petitioners have not filed any appeal or cross-objections challenging the quantum of compensation awarded by the tribunal. Having regard to the facts and circumstances of the case, the Tribunal awarded reasonable rate of interest i.e. 7.5% p.a. from the date of filing of the petition till the date of realisation on the amount of compensation awarded. Therefore, I see no valid ground to interfere with the well considered judgment and award passed by the Tribunal and the appeal lacks merits and bonafides.

15 In the result, the appeal is dismissed. Consequently, miscellaneous petition if any pending in this miscellaneous appeal shall stand closed. No order as to costs.

T.SUNIL CHOWDARY, J.

Date: 2nd March, 2015.
kvsn

