

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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M.A.C.M.A.No.1847 of 2005

Between:

Smt.M.Indira and others.

....Appellants

and

M/s.Uttam Transport and another.

....Respondents

JUDGMENT PRONOUNCED ON : 26.11.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?

2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to : No

see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.1847 of 2005

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JUDGMENT:

This appeal is preferred against the award in O.P.No.595 of 2000, dated 11.04.2005, on the file of the Motor Accident Claims Tribunal – cum – II Additional District Judge, Ranga Reddy.

The appellants are claimants in the aforesaid petition. They are seeking enhancement of the compensation, as Tribunal awarded only an amount of Rs.25,000/- for the death of the breadwinner of the family on the principle of no fault liability. The petition was filed on the allegation that on 10.05.2000, when one M.Krishnaiah was driving the Ashok Leyland Mini vehicle bearing No.AP 22 T 5510 from Atmakur to Sanga Reddy, when it reached near Kandi on NH9, one oil tanker bearing No.MH O4H 3724 came with high speed in rash and negligent manner from opposite direction dashed the said mini vehicle. In the said accident, the said Krishnaiah and others received injuries and they were shifted to Gandhi Hospital for treatment. While undergoing treatment, he succumbed to injuries on 11.05.2000 and two others also died.

The accident occurred due to rash and negligent driving of the oil tanker bearing No.MH O4H 3724 only. The Tribunal framed the following issues:

“(i) Whether the accident took place on 10.5.2000 at about 7.30 AM at Kandhi village, on account of the rash and negligence driving of the driver of the oil tanker bearing No.MH 4H 3724 while dashed the Ashok Leyland mini vehicle bearing No.AP 22T 5510?

(ii) Whether the petitioners are entitled to claim any

compensation, if so for how much amount, from which respondent?

(iii) To what relief?”

Before the Tribunal, the wife of the deceased was examined as P.W.1 besides examining P.W.2 and Exs.A1 to A11 were marked. The owner of the vehicle remained *ex parte*. The Tribunal held that because of collision of both vehicles, there is equal responsibility on the part of both the drivers in causing the accident and in view of the absence of any evidence with regard to the age and income of the deceased, an amount of Rs.25,000/- was awarded under no fault liability.

The approach of the Tribunal is totally wrong and this Court is not satisfied. The percentage of liability even in the case of collision of both vehicles was not fixed. When inquest report and PME report were exhibited as Exs.A2 and A3, the age of the deceased would have been taken note of. Even in the absence of any evidence with regard to the income of the deceased, notional income should have been taken. The no fault liability was granted to the extent of 50% holding that the liability is 50% without giving any finding of the percentage of liability due to the action of the deceased.

Learned Counsel for the appellants submits that, for the death occurred in the same accident, O.P.No.1170 of 2000 was filed and a copy of the order in the said O.P was filed as Ex.A4. The same was not taken note by the Tribunal.

In the circumstances, this Court is not satisfied with the manner and disposal of the claim petition of the appellants herein and the matter is remanded to the Motor Accident Claims Tribunal, Ranga Reddy, for rehearing the matter by giving liberty to the claimants to take appropriate steps for impleading the proper parties and adduce necessary additional evidence, if any. In view of the accident being of the year 2000, the Tribunal shall endeavour to dispose of the case as expeditiously as possible, within a period of one year from the date of receipt of a copy of this order.

The appeal is, accordingly, allowed and remanded. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

26.11.2015

vs

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