

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

THURSDAY THIS THE TWELFTH DAY OF MARCH
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE MR JUSTICE A.SHANKAR NARAYANA

-
M.A.C.M.A.No.507 of 2006

Between:

The Oriental Insurance Co.Ltd.,
Rep.by its Divisional Manager,
Hyderabad

..... APPELLANT

AND

G.Uma Maheswari and 4 others

.....RESPONDENTS

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The Court made the following:

HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

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M.A.C.M.A.No.507 of 2006

JUDGMENT:

Respondent No.2-The Oriental Insurance Company Limited is the present appellant. The instant appeal is filed aggrieved by the order, dated 29.09.2005, in O.P.No.289 of 2001, on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Additional District Judge, Anantapur (hereinafter referred to as "the Tribunal"), whereby

and whereunder, a sum of Rs.8,38,480/- with interest @9% per annum was granted as compensation as against the claim of Rs.10,00,000/-, laid under Sections 140 and 161(c) of the Motor Vehicles Act, 1988 and Rule 455 of the A.P.Motor Vehicles Rules, 1989, for the death of one G.Giridhar Reddy, who was the husband of the 1st petitioner, father of 2nd petitioner and son of petitioners Nos.3 and 4.

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

3. Facts, in brief, are that the said G.Giridhar Reddy, on 22.02.2001, left the house of his brother at Kurnool at 6.15 a.m. on his motor cycle bearing registration No.AP02-F756 to go to Anantapur and he was driving the motor cycle and another person belonging to Anantapur sat on the motor cycle as pillion rider, and at about 6.30 a.m, while they were crossing Viswanatham Petrol bunk situated in the outskirts of Kurnool town on Gooty road and reached near Share Punjab Dhaba on National Highway-7, the crime vehicle i.e. Tipper bearing registration No.AP9W-664 came from Vengannabavi side, driven at high speed with load of metal and dashed the motor cycle, due to which, both of them sustained grievous injuries and died instantly. The petitioners, projecting that the deceased Giridhar Reddy was a T.V.Cable operator, having 170 cable TV connections, earning Rs.17,000/- per month and spending Rs.5,000/- towards maintenance expenses, sought a sum of Rs.10,00,000/- as compensation from Respondents Nos.1 and 2, jointly and severally.

4. Respondent No.1 filed counter, opposing the claim, respondent No.2 filed separate counter, opposing the claim, raising various pleas, while contending that the amount of compensation, sought for, is highly excessive requested to dismiss the claim petition.

5. The Tribunal, based on the pleadings, framed the following seven issues, in order to fix the responsibility for the accident.

- “1. Whether the accident occurred on 22.02.2001 due to rash and negligent driving of the Tipper bearing No.AP9W-664 by its driver, dashed against the motor cycle bearing No.AP02F-765 and caused the death of the deceased?
2. Whether the driver of the crime vehicle is having valid driving licence by the date of accident?
3. Whether the crime vehicle was having valid permit on the date of accident?
4. Whether the vehicle was insured on the date of accident?
5. Whether the petitioner proved the age, income and occupation of the deceased?
6. Whether the petitioners are entitled to compensation? If so, to what amount and from which respondent?
7. To what relief?”

6. During enquiry, the 3rd respondent, who is father of the deceased, besides examining himself as P.W.1, examined one K.Damodara Reddy as PW 2 and marked Exs.A1 to A7. On behalf of 2nd respondent, RWs 1 and 2 were examined and Exs.B1 to B3 were marked in order to prove their stand that the licence possessed by the Tipper driver was a fake licence.

7. The Tribunal, on appraisal of evidence, both, oral and documentary, let in by the petitioners, held issue No.1 in favour of the petitioners, finding that due to rash and negligent driving of the Tipper driver, the accident has occurred. Issue No.2 also was held in favour of the petitioners and against the Insurance Company, and so also, Issues Nos. 3 & 4. On Issue No.5, the Tribunal, on appraisal of evidence, held that the deceased was 30 years old, and taken the

income at Rs.6,000/- per month, keeping in view, the deceased was T.V. cable operator with 170 cable connections and thus, arrived at Rs.72,000/- as the annual income. On Issue No.6, by applying multiplier '16.51' as per the decision of this Court in ***Bhagwan Das v. Mohd. Arif***^[1], arrived at Rs.7,92,480/-, having given deduction of 1/3rd therefrom towards personal expenses of the deceased, besides granting Rs.15,000/- towards consortium, Rs.10,000/- towards loss of estate, Rs.1,000/- towards funeral expenses, and Rs.20,000/- towards mental agony, and, thus, a total sum of Rs.8,38,480/- was granted with interest @9% per annum as compensation.

8. Having got aggrieved by the aforesaid order, the instant appeal is preferred by the Insurance Company, confining only to the quantum of compensation, determined by the Tribunal, on the ground that it was highly excessive and arbitrary, as the Tribunal did not view the evidence on record in proper perspective.

9. As seen from the grounds of appeal and as contended by the learned counsel for the appellant, the plea of fake licence, set up by the appellant in the original petition, in regard to which RWs 1 and 2 were examined, was given up, since it is not agitated in the grounds of appeal.

10. Heard Sri S.Agastya Sharma, learned counsel for the appellant and Sri S.D.Gowd, learned counsel for the respondents 1 to 4 herein. Despite service of notice on Respondent No.5, none appears on his behalf.

11. Perused the order and the evidence on record.

12. Now, the short question that arises for consideration is, whether the amount of compensation, determined by the Tribunal, is just and adequate or excessive and arbitrary, as contended by the

respective parties?

13. The Tribunal has dealt with the relevant question under issue Nos.5 & 6. The evidence on record definitely indicates that the deceased was having as many as 170 TV cable connections on the date of accident and maintaining them as sub-operator, and even excluding the expenses towards employing personnel, the amount of Rs.6,000/-, fixed by the Tribunal as the monthly income and Rs.72,000/- as annual income and deducting 1/3rd therefrom towards personal expenses, cannot be faulted with. There are four petitioners who are dependents, and if strictly viewed in the light of the decision of the Hon'ble Apex Court in ***Sarla Verma v. Delhi Transport Corporation***^[2] 1/4th deduction is permissible and so also the relevant multiplier applicable is '17' in place of '16.5', which was taken by the Tribunal. Thus, viewed from any angle, amount of Rs.8,38,480/-, determined by the Tribunal as compensation towards petitioners is just and adequate and cannot be construed or viewed as highly excessive and arbitrary.

14. However, concerning interest, the Tribunal awarded interest @9% per annum. In view of the decision of the Hon'ble Apex Court in ***Rajesh and others v. Rajbir Singh and others***^[3], interest is reduced from 9% per annum to 7.5% per annum on the compensation, granted by the Tribunal, from the date of petition till realization.

15. The Appeal is accordingly allowed in part, to the extent, indicated above. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

A. SHANKAR NARAYANA, J

Date: 12.03.2015
Dsr

[\[1\]](#) 1987(2) ALT 137
[\[2\]](#) (2009) 6 SCC 121
[\[3\]](#) 2013 ACJ 1413 (SC)