

THE HON'BLE SRI JUSTICE S.V.BHATT

M.A.C.M.A.No.1814 OF 2005

JUDGMENT:

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Heard learned Standing Counsel Sri A.Ramakrishna Reddy for appellant and learned counsel Sri Chindam Pratap for respondents 1 to 4.

Second respondent in M.V.O.P.No.454 of 2001 in the Court of the Motor Accidents Claims Tribunal-cum-I Additional District Judge, Ongole (for short 'the Tribunal'), is the appellant herein.

This appeal is directed against the award dated 09.04.2004 whereby the Tribunal awarded a sum of Rs.8,50,744/- to respondents 1 to 4 herein towards compensation.

The appeal is filed by the insurance company questioning the quantum of compensation determined by the Tribunal. With the assistance of Sri A.Ramakrishna Reddy, learned Standing Counsel for the appellant, I have perused the material available on record and the impugned award.

The circumstances relevant for the disposal of the appeal are as follows:

The 1st respondent is the wife of deceased M.Amarnath and respondents 2 to 4 are his children. On 02.02.2001, deceased Amarnath, who was the pillion rider on motor cycle bearing No.ADL 5959, driven by his friend G.Nataraj, was returning to Warangal from Jangaon. When they crossed Raghunathpalli Police Station, the motorcycle was hit by jeep bearing No.AP 36 T 7500 driven by its driver in a rash and negligent manner. The pillion rider suffered grievous injuries and finally succumbed to injuries. The deceased was working as Secondary Grade Assistant in Zilla Parishad Secondary High School and was drawing a gross salary of Rs.7,339/- per month at the time of accident. The deceased was aged 45 years. The claimants, in all, claimed a total compensation of Rs.15 lakhs. The 2nd respondent contested the claim in law and fact. The claimants

were called upon to prove the age, income and that the accident happened due to the rash and negligent driving of the jeep by its driver. The 2nd respondent claimed statutory protection under Sections 147, 149 and 170 of the Motor Vehicles Act. The jeep bearing registration No.AP 36 T 7500 was not driven by a person with valid licence.

The Tribunal framed the following issues for decision:

- i. Whether the accident took place due to rash and negligent driving of the commander jeep bearing No.AP 36 T 7500 by its driver?
- ii. Whether the petitioners are entitled for compensation, if so, what amount and from whom?
- iii. To what relief?

On behalf of claimants, P.Ws.1 to 4 were examined and Exs.A-1 to A-14 were marked. On behalf of insurance company, R.W.1 was examined and Exs.B-1 and B-2 were marked.

On issue No.1, the Tribunal held as follows:

“Though the respondent No.2 company has alleged that the accident was occurred due to negligence on the part of the driver of the motor cycle ADL 5959, it did not adduce any evidence to rebut the claim of the petitioners.

In view of the aforesaid discussion, I hold that the accident took place due to rash and negligent driving of the offending jeep AP 36 T 7500 by its driver.

This issue is decided accordingly in favour of the petitioners”.

The Tribunal accepted the age, earning of details of deceased and worked out the compensation as follows:

Quantum of compensation Rs.8,28,744-00

(Annual loss of dependency Rs.59,196/- x

multiplier 14)

Funeral expenses Rs. 2,000-00

Loss of estate Rs. 10,000-00

Loss of consortium Rs. 10,000-00

Total Rs.8,50,744-00

Hence, the appeal.

The learned counsel appearing for the appellant by reference to the specific grounds raised in the memorandum of appeal contended that the multiplier adopted by the Tribunal is illegal and the Tribunal ought to have taken the multiplier '10.5' instead of '13'. From the salary details as evidenced by Exs.A-8 and A-9 and the multiplier and having regard to the subsequent decisions of the Apex Court in **SARLA VERMA V. DELHI TRANSPORT CORPORATION**, I am of the view that the compensation granted is just and proper. On the other hand, though the claimants are entitled to more compensation and since they are not praying for additional compensation, I am not proposing to examine the entitlement from that perspective in the facts and circumstances, having regard to the proven facts. In my considered view, the amount of Rs.8,50,744/- granted by the Tribunal towards compensation is just and proper. I see no reason to interfere with the award of the Tribunal and confirm the findings on material aspects. I consider it unnecessary to re-consider various heads under which the compensation is paid.

Appeal is, accordingly, dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

S.V.BHATT

06th November, 2015

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