

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A. No.1138 of 2005

JUDGMENT:

This appeal is preferred by the Insurance Company against the award passed in O.P.No.733/2001 dated 31.03.2005. The respondents 1 to 3 herein filed the above said O.P. claiming compensation of Rs.3 lakhs for the death of one Sri Burugu Prabhudas in a road accident that occurred on 01.06.2001 at about 8.00 P.M at Pulla village, West Godavari District.

PWs 1 and 2 were examined and exhibits A1 to A5 were marked on behalf of the petitioner. On behalf of the third respondent, RWs 1 and 2 were examined and exhibits B1 and B2 were marked.

The Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the driver of the vehicle bearing No.AP 37U 88 while deciding Issue No.1. With regard to compensation, the Tribunal noticed that the deceased was aged about 45 years and he was an agricultural coolie. Accordingly, it computed the loss of earnings as Rs.1,82,480/- and awarded the same along with interest @ 9% per annum from the date of petition till the date of realisation.

Learned counsel for the appellant contends that the vehicle is not having a fitness to ply, and hence, the Tribunal, though passed the award for an amount of Rs.1,82,480/-, ought to have permitted the appellant to recover the said amount from the owner of vehicle, who is second respondent before the Tribunal. He further submits that the grant of 9% interest on the amount awarded is too high.

In view of the findings recorded by the Tribunal that the accident occurred due to rash and negligent driving of the driver of the vehicle and in the absence of any challenge to the calculation made by the Tribunal, the award amount of Rs.1,82,480/- cannot be disturbed. With regard to grant of interest at 9% per annum, the law is well settled by the Supreme Court that 9% interest is a reasonable amount to be granted on the amount of compensation. With regard

to the point of absence of fitness certificate, no issue was framed, though the said point was raised in the additional counter filed on behalf of the third respondent. In the absence of any issue, this Court is not inclined to modify the award passed by the Tribunal.

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

Miscellaneous petitions pending, if any, in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

03.11.2015

MVA

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Date: 03.11.2015

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