

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1005 of 2005

JUDGMENT:

Dissatisfied with the quantum of compensation of Rs.27,000/- awarded by the Motor Accident Claims Tribunal – cum-II Additional District Judge (Fast Track Court), Srikakulam ('the Tribunal' for brevity), vide order, dated 28.02.2006, passed in M.V.O.P.No.537 of 2001, as against the total claim of Rs.1,50,000/-, the claimants preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for the appellants-claimants, the learned counsel for the 2nd respondent-Insurance Company and perused the record.

3. Learned counsel for the appellants-claimants would contend that the deceased-T.Appamma died due to rash and negligent driving of the driver of the auto bearing No.AP 30 T 4845. The Tribunal assessed the compensation at Rs.50,000/- and deducted 50% of the same stating that the deceased was also responsible for occurrence of the accident and accordingly granted Rs.25,000/- apart from granting Rs.2,000/- towards funeral expenses and awarded total compensation of Rs.27,000/-, which is inadequate and prayed to enhance the same.

4. Learned counsel for the respondent-Insurance Company would contend that the Tribunal had rightly assessed the compensation as there were nine passengers in the auto.

There is no infirmity in the impugned order. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal.

5. There is no dispute with regard to the death of the deceased-T.Appamma in a motor accident occurred on 04.11.2000 involving the auto bearing No.AP 30 T 4845. P.W.1 deposed about the rash and negligence on the part of the driver of auto bearing No.AP 30 T 4845. Ex.A1-copy of FIR reveals the rash and negligent driving of the driver of the auto bearing No.AP 30 T 4845. Ex.A2-certified copy of the charge sheet also reveals the same. Therefore, it can be held that the accident occurred due to rash and negligent driving of the driver of the auto bearing No.AP 30 T 4845. The deceased was not at fault.

6. As per the evidence on record, the deceased was 60 years old, claimant No.1 is her husband aged 68 years and claimant No.2 is her son, aged 32 years. On account of the death of the deceased, they had monetary loss and subsequently due to passing away of claimant No.1 (father), claimant No.2 became an orphan. Bearing this in mind, granting compensation of Rs.50,000/- to claimant No.2 would be just and reasonable.

7. Accordingly, this appeal is allowed in part modifying the order, dated 28.02.2006, passed by the Tribunal in M.V.O.P.No.537 of 2001, enhancing the compensation from Rs.27,000/- to Rs.50,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit. On deposit of the compensation, claimant No.2 is permitted to withdraw the entire amount along with the accrued interest.

Miscellaneous Petitions pending, if any, shall stand closed.

There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

26th June, 2018
ssp

