

HONOURABLE SMT JUSTICE ANIS

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M.A.C.M.A.No.2475 of 2005

JUDGMENT:

This appeal is filed by the appellant/respondent No.2 under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the order and decree, dated 21.04.2005, in M.V.O.P.No.32 of 2002, passed by the Chairman, Motor Accident Claims Tribunal-cum-IV Additional District Judge, Tirupati, awarding compensation of Rs.1,50,000/- against the respondents.

2. Respondent Nos.1 and 2/petitioners filed the aforesaid M.V.O.P. under Section 166 (1) (c) of the Act claiming compensation of Rs.3,50,000/- on account of death of D.Venkateswarulu, in a motor vehicle accident, that occurred on 30.07.2001.

3. For the sake of convenience, the parties hereinafter will be referred to, as they are arrayed in the Original Petition.

4. The brief averments made in the petition are that the deceased D.Venkateswarulu, along with five other coolies, was working in water pipeline at T.V.K.Nagar, Madras. On 30.07.2001 the deceased wants to go to his Village Kalapadu Arundathiwada of Nellore District, he along with others boarded Mini lorry bearing No.AP-05-V-5660 and when the lorry reached Railway bridge near Kalagunta Village, the driver of mini lorry drove the lorry in a rash and negligent manner with an intention to over take lorry bearing No.28-B-2324. At that time one car was coming from opposite direction and to avoid accident, the driver of mini lorry dashed lorry bearing No.TN-28-B-2324 on the back side, as a result the cleaner of mini lorry and one Gali Narasimhulu died on the spot and deceased and others sustained injuries. Thereafter, the deceased was shifted to Government Hospital, Chennai for better treatment, but he died on 31.07.2001. A case in Crime No.36 of 2001 was registered against the driver of mini lorry. At the time of accident, the deceased was aged about 23 years and he was hale and healthy and earning an amount of Rs.3,000/- per month and contributing the same to his family. Therefore, the petitioners prayed to grant an amount of Rs.3,50,000/- towards compensation.

5. The first respondent remained *ex parte*.

6. The brief averments made in the counter filed by second respondent are as follows:

The second respondent put the petitioners to prove the manner of accident, age and income of the deceased and also specifically stated that the driver of the lorry has not drove the vehicle in a rash and negligent manner and finally stated that the compensation claimed by the petitioners is high and excessive and prayed the Court to dismiss the petition.

7. Basing on the above pleadings, the Tribunal framed three issues and to substantiate the claim, petitioners examined P.Ws.1 and 2 and got marked Exs.A.1 and A.2. On behalf of the respondents, R.W.1 was examined and Ex.B.1 was marked.

8. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to rash and negligent driving of driver of Mini lorry bearing No.AP-05-V-5660 and awarded compensation of Rs.1,50,000/- along with interest at 9% per annum to the petitioners against the respondents.

9. Being aggrieved by the award passed by the Tribunal against the respondents, the second respondent preferred the present appeal.

10. Learned counsel appearing for the appellant/second respondent contended that the rate of interest at 9% per annum awarded by the Tribunal is high and excessive and prayed the Court to reduce the same to 7.5% per annum in view of different rate of interests granted by the Hon'ble Supreme Court in the decisions reported in ***Sanobanu Nazirbhai Mirza and others v. Ahmedabad Municipal Transport Service*** and ***Rebeka Minz and others v. Divisional Manager, United India Limited Insurance Company Limited and another,***

11. On the other hand, learned counsel appearing for respondents 1 and 2 conceded for the same and stated to reduce the interest from 9% per annum to 7.5% per annum.

12. Having regard to the submission made by learned counsel appearing for both the parties, the points which are to be decided in this appeal are as follows:

1. Whether the appellant/ second respondent is liable to pay compensation to respondent Nos.1 to 2/petitioners or not?

2. Whether the appellant/ second respondent is entitled to set aside the award passed by the Tribunal or not?
3. Whether the appellant/ second respondent is entitled to reduce the rate of interest awarded by the Tribunal or not?

13. **POINTS:** A perusal of the record shows that there is no dispute about the accident that occurred on 30.07.2001 due to rash and negligent driving of driver of Mini lorry bearing No.AP-05-V-5660, in which the deceased died. The Tribunal after considering the age and income of the deceased, awarded an amount of Rs.1,50,000/- towards compensation and the said finding needs no interference by this Court as it is just and reasonable.

14. The main grievance of the appellant is that the Tribunal awarded rate of interest at 9% per annum and it has to be reduced. In this regard, he also placed reliance on the judgments of the Hon'ble Apex Court referred supra and prayed the Court to reduce the rate of interest from 9% per annum to 7.5 % per annum from the date of the filing of appeal till the date of realization.

15. Considering the facts and circumstances of the case and in view of the settled law of the Hon'ble Apex Court, I am of the view that the rate of interest shall be reduced from 9% per annum to 7.5% per annum from the date of appeal till the date of realisation.

16. Accordingly, the appeal is partly allowed confirming the quantum of compensation awarded by the Tribunal, but reducing the rate of interest awarded by the Tribunal from 9% per annum to 7.5% per annum from the date of appeal till the date of realisation. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

ANIS, J

OCTOBER 09, 2015

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HONOURABLE SMT JUSTICE ANIS

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Date: 09.10.2015

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