

THE HON'BLE SRI JUSTICE S.V. BHATT

M.A.C.M.A.No.323 OF 2005

JUDGMENT:

Heard Sri Naresh Byrapaneni, learned counsel for the insurance company.

M/s United India Insurance Company Limited is the appellant herein. This appeal is directed against the Award dated 09.02.2004 in O.P.No.852 of 2000 in the Court of the Motor Accidents Claims Tribunal (District Judge), Nizamabad (for short 'the Tribunal'), wherein the Tribunal allowed the claim petition filed by the appellants granting compensation of Rs.2,50,000/- with interest at 9% per annum.

Petitioners 1 and 2 are the parents of one Bhupalli Balaiah (deceased), 3rd petitioner is wife of the deceased and 4th petitioner is the minor daughter of the deceased.

The facts of the case, in brief, are that on 15.04.1998 at about 6.00 P.M., one Bhupalli Balaiah along with other labourers were returning from Nagloor Village on tractor bearing No.AP 25 T 1354 after finishing their coolie work and when the tractor reached near hillock in Gandhari Shivar, the driver of the tractor drove the same in rash and negligent manner at high speed and lost control of the same, due to which the tractor turned turtle by the side of the road. Balaiah received several injuries and died on the spot while other labourers sustained injuries. The deceased was aged 20 years and was hale and healthy as on the date of accident. He was earning Rs.5,000/- per month. Petitioners are dependant on the earnings of the deceased and they lost their earning member of the family. Respondents 1 to 3, being the insurer, owner and driver of the tractor and trailer bearing No.AP 25/T 1354 and 1355 are jointly and severally liable to pay the compensation.

Respondents 2 and 3 did not choose to file any written statement. The 1st respondent filed written statement denying each and every averment made by the petitioners in the claim petition and *inter alia* stating that the compensation claimed by the petitioners under various heads is incorrect, baseless and exorbitant.

Based on the above pleadings, the Tribunal framed the following issues for trial:

- (i) Whether the accident has taken place due to rash and negligent driving of the vehicle bearing No.AP 25/T 1354 by its driver?
- (ii) Whether the petitioners are entitled to compensation? If so to what just amount and from which of the respondents?
- (iii) To what relief the petitioners are entitled to?

On behalf of petitioners, P.Ws.1 and 2 were examined and Exs.A-1 to A-9 were marked and behalf of respondents R.W.1 was examined and Ex.B-1 copy of insurance policy was marked.

On consideration of the material available on record, the Tribunal on issue No.1 held that the accident occurred on account of the rash and negligent driving of the tractor and trailer by the driver. On issues 2 and 3 the Tribunal held that the claimant is entitled for grant of compensation and accordingly the Tribunal granted Rs.2,50,000/- with interest at 9% p.a. Hence, the appeal seeking enhancement of compensation.

P.W.1, the father of deceased, in his evidence deposed that the deceased was aged 20 years as on the date of accident, was working as a labourer earning Rs.5,000/- per day and contributing his earnings to his family for maintenance. The Tribunal took the earnings of the deceased at Rs.3,000/- owing to the fact that the deceased could earn at least Rs.100/- per day, which in considered view of this Court is just

and proper. After deducting one-third towards his personal expenses, the Tribunal had arrived at Rs.2,000/- per month and at Rs.24,000/- per annum. The Tribunal applied the multiplier '19.14' applicable to the age of the deceased, who was 20 years. By applying the said multiplier, the Tribunal arrived at the loss of dependency at Rs.4,59,360/- (Rs.24,000/- x 19.14), which is over and above the compensation claimed by the petitioners. The Tribunal, therefore, restricted the compensation to Rs.2,50,000/- making respondents 1 to 3 jointly and severally liable to pay the compensation at 9% per annum from the date of petition till realization. The Tribunal apportioned the compensation among the petitioners.

The findings arrived at by the Tribunal does not warrant any interference by this Court and same are hereby confirmed.

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

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

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Date: 03.12.2015

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S.V.BHATT,