

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Miscellaneous Appeal No.4765 of 2003

Date: 16-11-2015

Between:

Baddepudi Veeraraghavulu @ Raghavulu and 6 others

.... Appellants

AND

R. Srinivasulu and 3 others

.... Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Miscellaneous Appeal No.4765 of 2003

ORDER:

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This appeal is preferred by the legal representatives of the injured who died subsequently. The injured filed O.P.No.343 of 1996 on the file of the Motor Accident Claims Tribunal-cum-II Additional District Judge, Nellore, claiming compensation of Rs.1,00,000/- for the injuries sustained by him in a motor accident that occurred on 07-01-1996 while he was returning to his house after attending coolie work near Pappula Street, Stonehousepet, Nellore when a lorry bearing No.ADQ-6219 driven by its driver at high speed rashly and negligently and dashed against him. In the said accident, his right thigh was fractured and there were injuries to his left leg. The owner of the lorry, who is the 1st respondent, remained

ex parte and the 2nd respondent contested the case. On the basis of both oral

and documentary evidence, the Tribunal came to the conclusion that the accident took place due to rash and negligent driving of the lorry and that there was subsisting policy at the time of accident. The Tribunal noticed that the injured sustained two injuries, out of which one was simple and the other was grievous. Taking a liberal view as the injured died subsequently, the Tribunal awarded an amount of Rs.10,000/- for the injuries and Rs.10,000/- for extra-nourishment along with interest at 9% p.a. The respondents 3 and 4 also claimed to be legal representatives and claimed compensation amount. The Tribunal by its award dated 28-03-2003 held that the petitioners were entitled to Rs.20,000/- with future interest at 9% p.a. from the date of petition till realisation and that the amount shall be deposited in Indian Overseas Bank, Nellore. It was also held that the legal representatives of the deceased first petitioner shall establish their right over the amount of compensation awarded to the deceased first petitioner in separate proceedings to disburse the amount. Challenging the same, the present appeal is filed.

The present appeal relates to enhancement of compensation. The injuries sustained by the deceased were two injuries one was simple and the other was grievous. In respect of said two injuries, an amount of Rs.10,000/- was awarded, besides the said amount, an amount of Rs.10,000/- was awarded for extra-nourishment. The award of the said amount cannot be said to be meagre in the light of the injuries sustained by the injured at the time of accident. In that view of the matter, no case is made out for enhancement of compensation, and the appeal is accordingly liable to be dismissed. However, the Tribunal should have ordered the payment of compensation amount to the petitioners without holding the said amount subject to result of separate proceedings to be initiated by the petitioners. Since the proceedings were initiated by the petitioners, the petitioners should have been held to be entitled for the awarded amount and if the respondents 3 and 4 wanted to contest, the liberty was always left open to respondents 3 and 4.

In the circumstances, the award dated 28-03-2003 passed by the Motor Accident Claims Tribunal-cum-II Additional District Judge, Nellore in O.P.No.343 of 1996 is confirmed and the respondents 1 and 2 shall jointly and severally pay the awarded amount along with future interest at 9% p.a. to the petitioners without any need for separate proceedings. The appeal is

accordingly dismissed, subject to the modification with regard to the payment of amount.

A.

RAMALINGESWARA RAO, J

Date: 16-11-2015

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