

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

MACMA No. 4667 of 2008

JUDGMENT :

The 2nd respondent, among the two respondents including the owner of the Eicher vehicle, impugning the award of the Tribunal in O.P. No.31 of 2006 dated 06.05.2008 filed by the husband and two minor children of the deceased by name Anjali, aged about 23 years, as per Ex.A-5 post mortem certificate, maintained the claim under Section 163-A and 166 of the Motor Vehicles Act for Rs.5,00,000/-, since awarded by the Tribunal of Rs.4,12,000/- with interest at 6% p.a, maintained the appeal.

2) The contentions in the grounds of appeal are that the compensation awarded is excessive, exorbitant, the deceased was pillion rider of the bike driven by P.W-1, her husband and it is while crossing the road, they contributed to the accident that was not properly considered by the Tribunal in awarding compensation instead of fixing composite negligence on the rider of the bike, husband of the deceased, that the driver has no valid driving licence and despite evidence of R.W-1 with reference to Ex.B-3, hence to set aside the award and exonerate the insurer, otherwise fix contributory negligence

of the rider of the bike in which deceased was pillion rider and reduce the compensation.

3) Whereas, it is the contention of the learned counsel for the claimants as respondent Nos.1 to 3 to the appeal that the award of the Tribunal holds good and the compensation awarded itself is less, but for no cross-objections to enhance, hence to dismiss the appeal.

4) Heard and perused the material on record.

5) The death of the deceased is outcome of crushing under the wheels of the crime vehicle of the 1st respondent revealed from Ex.A-5 post mortem report itself suffice to the conclusion arrived by the Tribunal that the accident was caused due to the rash and negligent driving of the driver of the crime vehicle of the 1st respondent, which is undisputedly insured with the 2nd respondent/ appellant covering the risk.

6) So far as the driving licence concerned, the vehicle involved is goods carriage, the licence under Ex.A-3 is transport licence and there is nothing to show the licence issued is not sufficient to the driving of the vehicle in question to say imperfect licence as concluded by the Tribunal, thereby on that count also there is nothing to interfere even otherwise on the quantum.

7) In the result, the appeal is dismissed. There shall be no order as to costs. Pending miscellaneous petitions, if any, in both the appeals shall stand cancelled.

Dr. B. SIVA SANKARA RAO, J

19.09.2016
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