

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

M.A.C.M.A.M.P.No.499 of 2015

IN/AND

M.A.C.M.A. No.1529 of 2016

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JUDGMENT:

Heard both sides, who stated that both interlocutory and the appeal can be heard together and disposed of.

2. M.A.C.M.A.M.P.No.499 of 2015 is filed to condone the delay of 619 days in filing the appeal.

3. In the affidavit filed in support of the petition, it is stated that the Tribunal passed orders on 15.02.2013 in M.V.O.P.No.62 of 2012; that thereafter, the counsel applied for certified copies of the order and decree on 19.02.2013 and the same were received on 30.03.2013; that the counsel appearing in the lower Court sent copies of order and decree in M.V.O.P.No.62 of 2012 to the Head Office, Jaipur State on 30.04.2013; that thereafter, the Head Office took a decision to file an appeal and accordingly an amount of Rs.25,000/- was deposited on 13.05.2013, but the same was misplaced and not traced out; that in the meanwhile, the Head Office, Jaipur office established Regional Office in the State of Telangana and all files pertaining to the State of Telangana and Andhra Pradesh are transferred to Hyderabad Regional Office; that thereafter, the Regional Office traced out the certified copies of the order and decree in M.V.O.P.No.62 of 2012 in the month of January, 2015 and filed the present appeal. Therefore, there is a delay in filing the appeal. No counter affidavit is filed.

4. In view of above facts and circumstances, the delay is condoned.

5. This appeal is filed against the order and decree, dated 15.02.2013, in M.V.O.P.No.62 of 2012 on the file of Motor Accidents Claims Tribunal-cum-III Additional District Judge, Kurnool at Nandyal, whereby, the Tribunal granted compensation of Rs.5,60,000/- with interest at the rate of 6% per

annum from the date of registration of petition till deposit into the Court.

6. The brief facts of the case are that the claimants filed the aforesaid M.V.O.P under Section 166 (c) of the Motor Vehicles Act, 1988 claiming compensation of Rs.6,00,000/- for the death of the deceased R.Subba Reddy, who is husband of the first claimant, father of claimants 2 and 3 and son of the 4th claimant. On 10.11.2011, the deceased along with his wife and daughter were travelling in an Auto bearing registration No.AP-27-TT-2325 to go to Omkaram temple and when the said auto reached the outskirts of Bandi Atmakur Village, the driver of the auto drove the same at a high speed in a rash and negligent manner and lost the control, due to which, the auto turned turtle and the deceased fell down from the auto and sustained severe head injury. Thereafter, he was shifted to Government Hospital, Nandyal and from there he was referred to Government General Hospital, Kurnool for treatment, but he died in the said hospital while undergoing treatment. Police registered a case against the driver of the said auto in Crime No.111 of 2011 under Section 304-A IPC. At the time of accident, the deceased was aged about 46 years and he was hale and healthy and earning an amount of Rs.5,000/- per month.

7. The first respondent, being the owner, and the second respondent, being the insurer, are jointly and severally liable to pay the compensation to the claimants.

8. Learned counsel for the appellant submits that though the deceased is aged about 42 years as per Ex.B.2-Ration card, the Tribunal has taken the age of the deceased as 40 years and multiplier '15' has applied, which is erroneous.

9. On the other hand, learned counsel for the respondent submits that no amount is granted towards loss of future prospectus and if this aspect is taken into account, quantum of compensation need not be interfered with.

10. No doubt, even according to the claimants, they mentioned the age of

the deceased as 46 years. But, Ex.B.2 goes to show that the deceased was aged about 42 years at the time of accident, but the Tribunal has taken the age of the deceased as 40 years and applied '15' multiplier.

11. A perusal of the record shows that no amount is awarded towards loss of future prospectus. The interest was granted at the rate of 6% per annum only. The Hon'ble Apex Court and this Court held that just and reasonable compensation should be awarded to the claimants. Hence, the amount of compensation granted by the Tribunal cannot be said to be excessive since the Tribunal did not grant any compensation towards future prospectus of the deceased. In view of the facts and circumstances of the case, I do not see any ground to interfere with the Award of the Tribunal and the same is confirmed.

12. Accordingly, M.A.C.M.A.M.P No.499 of 2015 is ordered and the appeal is dismissed. No costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

A.RAJASHEKER REDDY, J

FEBRUARY 05, 2016

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