THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

M.A.C.M.A. No.231 of 2009

JUDGMENT:

Aggrieved by the Award dated 13.10.2008 in O.P.No.40 of 2007 passed by the Chairman, M.A.C.T-cum-XVI Additional Chief Judge-cum-II Additional Metropolitan Sessions Judge, Hyderabad (for short “Tribunal”), the second respondent—New India Assurance Company Limited preferred the instant appeal.

2) The parties in this appeal are referred as they are arrayed before the lower Tribunal.

3) The factual matrix of the case is thus:

a) On 16.05.2006 the deceased was returning to his house on the motor cycle bearing No.AP 12 D 3004 and when he reached near Akber Function Hall, at about 4.00 am, a bus bearing No.AP 02 T 6699 being driven by its driver in a rash and negligent manner at high speed, came in opposite direction and dashed the motor cycle. In the resultant accident, the deceased sustained grievous injuries and died on the spot. It is averred that the accident was occurred due to the rash and negligent driving by the driver of crime vehicle. On these pleas, the claimants, who are parents and brothers of deceased filed O.P.No.40 of 2007 under Section 166 of Motor Vehicles Act, 1988 (for short “the Act”) against respondents 1 and 2, who are the owner and insurer of the crime vehicle and claimed Rs.6,00,000/- as compensation.

b) Respondent No.1 is remained *ex parte*.

c) Respondent No.2—Insurer of auto filed counter denying all the material averments made in the petition and urged to put the claimants in strict proof of the same. It is averred that the accident was occurred due to rash and negligent driving by the driver of the bus. R2 further contended that compensation claimed is excessive and exorbitant and prayed to dismiss the O.P.

d) During trial, PWs.1 and 2 were examined and Exs.A1 to A8 were marked on behalf of claimants. Ex.B1—policy copy was marked on behalf of respondents.

e) On appreciation of both oral and documentary evidence, the Tribunal awarded total compensation of Rs.5,60,000/- with costs and interest at 7.5% p.a. against respondent Nos.1 and 2.

Hence, the appeal.

4) Heard arguments of Sri T.Ramulu, learned standing counsel for appellant/ Insurance Company and Sri Thoom Srinivas, learned counsel for respondent Nos.1 to 7/claimants. Notice sent to respondent No.8/owner of auto was returned as unserved.

5) Criticizing the Award, learned counsel for appellant mainly argued that quantum of compensation awarded by the

Tribunal is on high side and the Tribunal erred in taking the income of the deceased as Rs.6,000/- per month without there being any proper multiplier and instead it should have considered the deceased as non-earning member and fixed his notional annual income as Rs.15,000/- for computing the compensation.

6) Per contra, learned counsel for respondents/ claimants supported the award and argued that the deceased was studying B.Tech 3rd year and in that context, the Tribunal rightly fixed his notional income as Rs.6,000/- per month and after deducting 1/3rd towards personal expenditure computed the compensation for loss of dependency at Rs.5,28,000/- by adopting the multiplier '11' and the compensation arrived by the Tribunal is just and reasonable and there is no need to interfere.

7) In the light of above rival arguments, the point for determination in this appeal is:

"Whether the compensation awarded by the Tribunal is just and reasonable or needs interference?"

8) **POINT**: It is a case of death of young bachelor, who is aged 21 years and studying B.Tech 3rd year. The Tribunal considering his future prospectus, fixed his monthly income at Rs.6,000/- per month and after deducing 1/3rd towards personal expenditure, applied '11' as multiplier basing on the age of the mother of deceased and arrived at the loss of

dependency of Rs.5,28,000/-.

9) I find no irregularity or illegality in the compensation awarded by the Tribunal. Admittedly, the deceased was studying B.Tech 3rd year and the Tribunal made an assessment with regard to the earning capacity of the deceased on completion of his studies. Its assumption of Rs.6,000/- per month as earnings can be said to be on high side. So, the amount of Rs.5,28,000/- awarded by the Tribunal towards dependency cannot said to be as unreasonable and exorbitant one. The compensation awarded under other heads is also reasonable and hence it doesn't warrant interference of this Court.

10) In the result, this appeal filed by the Insurance Company is dismissed by confirming the award passed by the Tribunal in O.P. No.40 of 2007. No costs in the appeal.

As a sequel, miscellaneous petitions pending if any shall stand closed.

U. DURGA PRASAD RAO, J

Date:16.02.2016
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HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

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Dt. 16-02-2016

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