

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

M.A.C.M.A No. 2149 of 2005

AND

CROSS OBJECTIONS (SR) No. 37058 of 2008

COMMON ORDER:

The insurance company, which is the 2nd respondent in O.P.No.887 of 2000 on the file of the Motor Accidents Claims Tribunal (District Judge), at Nizamabad, is the appellant herein. It challenges the quantum of compensation awarded by the Tribunal, dated 15.04.2005. The claimants filed Cross Objections seeking enhancement of compensation.

2. The claim petition was filed alleging that on 20.08.1999, one Alladi Venkatesham was traveling in DCM Van bearing No. AP 25/T-8111 from Nizamabad to Hyderabad. At about 1230 PM, when they reached Masalpet station shivar on Nagpur to Hyderabad road, a lorry bearing No. UP 32/T-5666 driven by its driver in rash and negligent manner came in opposite direction on wrong side of the road and dashed the DCM van as a result of which, the van was completely damaged and Alladi Venkatesham received fracture injuries in various places. Initially, he was admitted in Gandhi Hospital, Secunderabad, and thereafter he was shifted to CDR Hospital Hyderabad. After discharge from CDR, he took treatment in various private hospitals and while undergoing treatment in Government Hospital Kamareddy, he died on 17.10.1999. He was aged about 42 years and worked as Gumasta, earning Rs.6,000/- per month.

3. On the basis of the pleadings, the Tribunal framed the following issues:

- i) Whether the accident has taken place due to rash and negligent driving of the vehicle bearing No.UP 32/T-5666 by its driver?
- ii) Whether the petitioners are entitled for compensation? If so, to what just amount and against whom?
- iii) To what relief?

4. Before the Tribunal, the petitioners examined PWs.1 to 3 and marked Exs.A1 to A12. Insurance policy was marked as Ex.B1.

5. The Tribunal, on the basis of oral and documentary evidence, came to the conclusion that the accident occurred due to the rash and negligent driving by the driver of the lorry bearing No. UP 32/T-5666.

6. With regard to the compensation, the Tribunal noticed that the deceased was aged about 42 years and though the legal representatives (LRs) claim that he was drawing a salary of Rs.3,000/- per month and Rs.100/- per day as batta, besides agricultural income, the Tribunal took the monthly income as Rs.2,000/-. Applying multiplier 15, it calculated the loss of dependency as Rs.3,60,000/-. It awarded Rs.15,000/- towards loss of consortium and Rs.2,500/- towards funeral expenses.

7. Even though appropriate multiplier is 14 for a person aged between 42-45 years, the Tribunal applied the multiplier of 15, but however, in view of the award of less amount towards loss of consortium and funeral expenses, this Court feels that the total amount of compensation that was awarded is justified and the

same does not call for any interference and it cannot be said to be on higher side. In the circumstances, the appeal filed by the insurance company is liable to be dismissed.

8. With regard to the Cross Objections filed by the claimants, in view of the same reasoning i.e., applying of wrong multiplier, but awarding less amount towards consortium and funeral expenses, but ultimately justifying the total compensation, the Cross Objections also deserve to be dismissed.

9. Accordingly, the appeal as well as the Cross Objections are dismissed, confirming the award passed by the Tribunal, dated 15.04.2005. No costs. Miscellaneous petitions, if any pending, shall stand closed.

A. RAMALINGESWARA RAO, J

18th January, 2016

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