

HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

MACMA No.899 OF 2010

JUDGMENT:

This appeal is arising out of the common order dated 02.12.2009 passed in O.P.No.534 of 2008 on the file of the Judge, Family Court-cum-Additional District & Sessions Judge, Nalgonda.

The appellant is the petitioner, who filed the said O.P. claiming compensation of Rs.3,00,000/-.

For the sake of convenience, the parties are referred to as they arrayed before the Tribunal.

The brief facts of the case are that on 05.06.2008, Ramavath Sreenu-driver of the auto bearing No.AP 24 V 4129 was proceeding from Nakkalapenta Thanda, Deverkonda, along with passengers, when he reached near Andhra Hotel at the outskirts of Kondmallepally Village at about 9:30 P.M., one lorry bearing No.AP 16 X 2574 came in opposite direction in a rash and negligent manner at high speed and dashed against the said auto and caused the death of one passenger and multiple injuries to some other passengers. The driver of the auto also sustained injuries in the said accident and while undergoing treatment, he died on 08.06.2008 in Osmania General Hospital, Hyderabad. It is, therefore, the case of the petitioner that the accident occurred only due to rash and negligent driving of the driver of the lorry bearing No.AP 16 X 2574. On complaint given to the police, a case in crime No.134 of 2008 was registered for the offences under Sections 337 and 304 of IPC against the driver of the lorry bearing No.AP 16 X 2574. It is the case of the petitioner that her deceased son was hale and healthy and was aged 20 years, earning Rs.5,000/- per month working as an auto driver and he

was contributing the same for the maintenance of family. The 1st respondent, who is the owner of the crime vehicle remained *ex parte*. The 2nd respondent-Insurance Company filed its counter denying the allegations made in the petition and stated that the claim of the petitioner is highly excessive and prayed to dismiss the petition. On consideration of the oral and documentary evidence, the Tribunal has awarded compensation of Rs.1,35,000/- to the petitioner.

Heard Smt.K.Rajitha, learned counsel for the petitioner and Sri N.J.Sunil Kumar, learned counsel for the respondents.

Learned counsel for the petitioner submits that the compensation awarded by the Tribunal is inadequate. She further submits that the Tribunal has not taken the correct income of the deceased while determining the compensation.

This is a case of death of a bachelor. The mother of the deceased filed O.P. claiming compensation of Rs.3,00,000/- and the Tribunal has awarded Rs.1,35,000/-. The notional income of the deceased can be taken into consideration as Rs.30,000/- per year. As the deceased was a bachelor by the date of accident, deducting 50% from his income, his annual contribution to his family would come to Rs.15,000/-. As per second schedule, the multiplier applicable to the deceased is '15'. After applying the multiplier '15', which is applicable to the deceased, the loss of dependency can be assessed at Rs.2,25,000/- (Rs.15,000/- x 15).

In the result, the appeal is partly allowed enhancing the compensation from Rs.1,35,000/- to Rs.2,25,000/- with interest at 7.5% per annum from the date of petition till the date of realization. The respondents are directed to deposit the amount within two months from the date of receipt of a copy of this order. On such deposit, the petitioner

is entitled to withdraw the entire amount. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

GUDI SEVA SHYAM PRASAD,J

Date : 13.03.2017
ssp

