

THE HON'BLE MS. JUSTICE J. UMA DEVI

MACMA NO. 2225 OF 2005

JUDGMENT:

The order dated 24.1.2005 passed by the Chairman, Motor Accident Claims Tribunal-cum-III-Addl. District Judge (FTC-II), Khammam in MATOP No. 472 of 2001 is assailed by the National Insurance company Limited, which has been arrayed as 3rd respondent in the above mentioned OP.

The grounds urged by the Insurance company to question the order passed by the Tribunal are briefly stated as under,

The Tribunal relying on the self-serving interested testimony of P.W.1 who is the wife of the deceased Venkata Reddy and the claimant in the above mentioned OP, has passed an erroneous order which is contrary to law and the evidence on record. Though there is no nexus between the death of the deceased and the accident, the Tribunal relying on the death certificate-Ex.A6 issued by the Sarpanch of deceased's village, has come to the conclusion that the death of the deceased had taken place on account of injuries sustained by him in the accident dated 30.12.1999. The Tribunal ought to have dismissed the claim made by the wife of the deceased Chereddy Kanaka Mahalaxmi (P.W.1) for compensation, as the evidence on record does not establish that the death of the deceased had taken place on account of the injuries sustained by him in the accident dated 30.12.1999. Though no evidence is produced establishing the income of the deceased, the Tribunal has awarded compensation of Rs.85,000/- and in the absence of any specific pleading

in the OP regarding the death of the deceased and the medical evidence to the effect that the death of the deceased had taken place on account of the injuries sustained by him in the accident, the Tribunal ought to have dismissed the claim made by P.W.1. These are the main grounds urged by the appellant-insurance company to challenge the order passed by the Tribunal.

I have perused the order passed by the Tribunal. The Tribunal relying on the evidence given by P.W.2 who is one of the eye-witnesses to the accident dated 30.12.1999 and other documentary evidence produced by the claimant viz., Exs.A1 to A6, the certified copies of FIR, charge sheet, wound certificate of deceased Venkata Reddy, certificate issued by Dr. M. Lakshmi Prasad, Kodad, four prescriptions and death certificate given by Sarpanch, has come to the conclusion that the accident dated 30.12.1999 had taken place due to the negligent driving of the crime vehicle. The Tribunal has also made the observation that evidence is there in record to believe that the deceased was given treatment till 20.3.2003 for the injuries sustained by him in the accident dated 30.12.1999. The Sarpanch of the village has also given a certificate Ex.A6 regarding the death of the deceased. The Tribunal relying on Exs.A1 to A6 has given a finding that the claimant is able to establish that the injuries sustained by the deceased have resulted his death. Therefore, this Court has no hesitation to uphold the finding of the Tribunal, based on the evidence given by P.W.2 and also the documents produced by the claimant, that the death of the deceased had taken place

on account of the injuries sustained by him in the accident dated 30.12.1999.

The Tribunal in its order dated 24.1.2005 at pages 3 and 4 has elaborately discussed about the occupation of the deceased relying on the evidence given by P.W.1 who is none other than the wife of the deceased. Taking into consideration the period of treatment, occupation of the deceased and other aspects borne by the record, the Tribunal has awarded compensation of Rs.85,000/- which in the opinion of this Court is fair and reasonable. The appellant-insurance company is rightly made liable to pay the compensation amount awarded jointly and severally along with vehicle's owner and this Court finds no ground to interfere or legal error in the order passed by the Tribunal. However, accepting the contention of the insurance company which is raised in the appeal grounds, the rate of interest awarded by the Tribunal is excessive, this Court hereby reduces the rate of interest from 9% to 7.5% per annum. The award passed by the Tribunal is hereby confirmed except the interest portion as indicated above.

In the result, the appeal is partly allowed, reducing the rate of interest from 9% to 7.5% per annum. Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

JUSTICE J. UMA DEVI

Dt. 3.4.2017
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