

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.719 of 2010

JUDGMENT :

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is preferred by the appellant – New India Assurance Company Limited (Insurer), challenging the judgment and decree dated 22.11.2006 in M.V.O.P.No.413 of 2004 passed by the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Tirupati, Chittoor District (for brevity "the Tribunal"), partly allowing the petition filed by the respondents-petitioners awarding compensation of Rs.11,99,315/- with interest @ 7.5% per annum from the date of petition till the date of deposit, as against the claim of Rs.15,00,000/- for the death of the deceased-Sri G. Hari Dhananjayulu in a motor vehicle accident that occurred on 27.11.2003 at Telephone Exchange, K.T. By-Pass Road, Tirupati.

2. The appellant - New India Assurance Company Limited is respondent No.2, respondent Nos.1 to 5 are the petitioners, and respondent No.6-owner of the offending vehicle is respondent No.1 in M.V.O.P.No.413 of 2004. For the sake of convenience, the parties are referred to as per their array in the O.P. before the Tribunal.

3. The brief facts of the case are that, on 27.11.2003 while the deceased – G. Hari Dhananjayulu was going on a bicycle near Telephone Exchange, K.T. By-Pass Road, Tirupati, at about 7.15 a.m., on account of the rash and negligent driving by the driver of Mahendra Jeep bearing No.AP-23V-406, as it dashed against the deceased, due to which the deceased sustained fatal head injury and succumbed to the injuries on 29.11.2003 at about 1.50 p.m. The petitioners, who are the dependents and legal heirs of the deceased, filed the above O.P. under Section 166(1)(c) of the Act, r/w. Rule 455 of the Andhra Pradesh Motor Vehicles Rules, 1989 claiming compensation of Rs.15,00,000/- against respondent Nos.1 and 2, who are owner and insurer, respectively, of the offending Jeep. The Tribunal, on consideration of the evidence and the material on record, held that the accident occurred due to the rash and negligent driving by the driver of the offending Jeep and accordingly, vide judgment and decree dated 22.11.2006 awarded compensation of Rs.11,99,315/- with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of deposit. Aggrieved by the said judgment and decree, the appellant-insurer has filed the present appeal.

4. Heard the arguments of Sri T. Ramulu, learned Standing Counsel for the appellant-insurer as well as Sri P. Ganga Rami Reddy, learned counsel for the respondents-

petitioners and perused the impugned judgment and also the evidence on record.

5. Learned Standing Counsel for the appellant-insurer fairly submitted that in view of the decision of the Hon'ble Apex Court in SMT. SARLA VERMA AND OTHERS Vs. DELHI TRANSPORT CORPORATION AND ANOTHER¹, which was rendered subsequent to the accident in the instant case, the appellant-insurer is not pressing the relief sought for in the present appeal.

6. Learned counsel for the respondents-petitioners submits that the respondents-petitioners are entitled for even more compensation, however, they have not preferred any appeal against the impugned judgment and decree seeking enhancement of compensation.

7. Having regard to the facts and circumstances of the case, since learned Standing Counsel for the appellant-insurer fairly submitted that the impugned judgment was rendered much prior to the judgment rendered by the Apex Court in SARLA VERMA's case (supra) and squarely covered by the said judgment, they are not pressing the relief sought for in the present appeal, the appeal is dismissed.

8. Learned counsel for the respondents-petitioners filed a Memo vide USR.No.4025/2017 stating that the 5th

¹ 2009 (6) SCC 121

respondent died in June, 2010 and that respondent Nos.1 to 3 are the only legal heirs of the deceased-Sri G. Hari Dhananjayulu.

9. Recording the said submission of the learned counsel for the respondents-petitioners, the Tribunal is directed to apportion the compensation amount among the legal heirs of the deceased-Sri G. Hari Dhananjayulu and the appellant shall deposit the same within a period of one month from the date of receipt of a copy of this judgment. On such deposit being made, the respondents-petitioners are entitled to withdraw their respective shares as per the apportionment to be made by the Tribunal.

10. Subject to the above observations, the Civil Miscellaneous Appeal is dismissed, thereby confirming the judgment and decree dated 22.11.2006 in M.V.O.P.No.413 of 2004 passed by the Tribunal. Interim stay granted by this Court on 30.04.2007 shall stand vacated. No order as to costs.

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

GUDISEVA SHYAM PRASAD, J

20.11.2017.
Msr

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