

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A No. 812 of 2005

JUDGMENT:

This appeal is arising out of the Judgment and Decree dated 22.11.2004 in O.P.No.889 of 2002 on the file of the Principal Motor Accidents Claims Tribunal, at Nalgonda (for short, 'the Tribunal').

2. Brief facts of the case are that on 03.03.2002, at 6:00 PM, at Edukotla Tanda, when Papaiah (hereinafter referred to as the 'deceased'), was proceeding on Hero Honda Splendor Motorcycle No.AP-24E-9288, a lorry bearing No.TDG 5365 driven by its driver in a rash and negligent manner at a high speed, dashed the motorcycle of the deceased. As a result, the deceased suffered grievous injuries and succumbed to injuries while undergoing treatment in Government Hospital, Miryalguda. Alleging that the accident occurred due to the rash and negligent driving of the lorry, the widow and son of the deceased filed the claim petition against respondents 1 and 2, the owner and the insurer of the lorry, claiming compensation of Rs.6,00,000/-, on account of the death of the deceased.

3. Respondent No.1-owner had remained ex parte. Respondent No.2-insurer filed its counter denying the averments made in the claim petition.

4. Based on the pleadings, the Tribunal framed the following issue for trial.

"Whether the petitioners are entitled to a compensation of Rs.6,00,000/- from R-1 and R-2 jointly and severally for the rash, negligent and high speed driving of lorry, TDG-5365, by its driver, employed by R-1 and insured by R-2."

5. On behalf of the petitioners-claimants, PWs.1 and 2 were examined, and documents Exs.A1 to A9 were marked. None was examined on behalf

of 2nd respondent-insurance company, however document Ex.B1-insurance policy was marked on its behalf.

6. The Tribunal, on consideration of the oral and documentary evidence, allowed the petition and awarded compensation of Rs.9,91,440/- with interest at 8% per annum from the date of petition till award, and at 6% per annum from the date of award till realisation. The Tribunal directed the 2nd respondent-insurer to deposit the entire compensation with interest within 30 days from the date of the award.

7. Aggrieved by the order of the Tribunal, the 2nd respondent-insurer filed this appeal.

8. Learned counsel for the appellant-insurance company mainly contended that the claim was made under Section 166 of the Motor Vehicles Act, 1988, but the Tribunal has taken the multiplier as shown in II Schedule of Section 163A of the Act.

9. Learned counsel for the appellant contended that the Tribunal has applied multiplier from the II Schedule under Section 163-A of the Motor Vehicles Act, while the claim petition was filed under Section 166 of the Act. Learned counsel however submitted that in view of the change in law there are no merits for consideration in the appeal.

10. Learned counsel for the respondent has submitted that the award passed by the Tribunal is in accordance with law.

11. On consideration of the submissions of the learned counsel, it is obvious that in the light of the decision rendered in the case of Sarla Verma v. Delhi Transport Corporation¹, the multiplier applicable for the claims made under Section 163-A of Act is definitely more than the

¹ (2009) 6 SCC 121

multiplier shown in the II Schedule of Section 163A of the Act. Therefore, there is no illegality in the judgment of the Tribunal.

12. In the result, the appeal is dismissed. No costs. Pending miscellaneous petitions, if any, shall stand closed.

GUDISEVA SHYAM PRASAD, J

16th June, 2017

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