

HON'BLE SMT. JUSTICE T. RAJANI

M.A.C.M.A. No.557 of 2006

JUDGMENT :

This Civil Miscellaneous Appeal, under Section 173(1) of the Motor Vehicles Act, 1988 is preferred by the appellant – United India Insurance Company Limited (Insurer) assailing the Award and decree dated 08.11.2005 in O.P.No.103 of 2000 passed by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Anantapur, Anantapur District (for brevity “the Tribunal”), on the grounds; that the Tribunal having held that there was contributory negligence on the part of the deceased also, erred in fixing the ratio at 75 : 25, and ought to have fixed negligence of the driver of the offending bus and the deceased at 50 : 50 ratio, that the Tribunal erred in taking the income of the deceased as Rs.4,500/- per month in the absence of any evidence to that effect, that the Tribunal also erred in awarding interest @ 9% per annum and sought to reduce the same to 7.5% per annum.

2. Heard Sri T. Mahender Rao, learned Standing Counsel for the appellant-Insurer as well as Sri K. Murali Krishna, learned counsel for the respondents/petitioners and perused the material on record.

3. At the hearing, though the learned Standing Counsel for the appellant-insurer argues the same grounds as were raised in the grounds of appeal, a perusal of the finding on Issue No.1 in the impugned Award reflects that after proper appreciation of facts and considering the fact that the accident had occurred while the deceased was crossing the road suddenly, negligence was attributed to the deceased also. Further, the appellant-insurer, except contending that 50% negligence should be held to be on the part of both the deceased and the driver of the offending bus, no evidence was adduced by the appellant to substantiate the said contention. In those circumstances, the apportionment of negligence by the Tribunal needs no interference.

4. With regard to determination of compensation, though learned counsel for the appellant-insurer submits that the Tribunal took the income of the deceased at Rs.150/- per day, which comes to Rs.4,500/- per month, and sought to reduce the same to Rs.3,000/- per month, this Court opines that the income of the deceased taken by the Tribunal is not on higher side, since the deceased was working as a Porter and was aged about 35 years as on the date of accident. But, so far as the argument advanced by the learned counsel for the appellant-insurer with regard to the rate of interest is concerned, this Court is inclined to reduce the same

from 9% to 7.5% per annum, which is on par with the bank rate of interest prevailing then and now also.

5. Accordingly, the Civil Miscellaneous Appeal is allowed in part, reducing the rate of interest awarded by the Tribunal from 9% to 7.5% per annum from the date of the petition till the date of realization. In all other aspects, the Award of the Tribunal shall remain unaltered. Proportionate costs are ordered.

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

02.06.2017.
Msr

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