

THE HON'BLE MS. JUSTICE J. UMA DEVI

MACMA NO. 111 OF 2005

JUDGMENT:

Heard learned standing counsel for the appellant-insurance company as well as learned counsel appearing for the respondents-claimants.

This is an appeal filed by the insurance company challenging the award dated 2.8.2003 passed by the Addl. District Judge-cum-Motor Accidents Claims Tribunal, Hindupur in OP No. 128 of 2001 whereby the claimants were granted compensation of Rs.1,35,872/- with interest @ 9% PA.

The parties are hereinafter referred to as they are arrayed before the Tribunal.

It is the case of the petitioners that the deceased Lakshamana Rao aged about 30 years, working as a labourer in Bakery at Mysore and earning Rs.4,500/- per month, died in a motor vehicle accident which occurred on 14.2.1997 due to the rash and negligent driving of the crime Trax vehicle by its driver. The driver is also stated to have died in the accident. First respondent is the owner of the crime vehicle and second respondent is insurer of the vehicle. The petitioners, being legal heirs of the deceased, filed MVOP claiming a total compensation of Rs.3.00 lakhs.

First respondent remained exparte and second respondent filed a counter denying that the accident occurred due to the rash and negligent driving of the crime vehicle by its driver and also age, income and occupation of the deceased and his relationship with the petitioners. The second respondent also contended that the driver of the crime vehicle had no

valid driving licence at the time of the accident and the offending vehicle was not in a good condition and at the time of accident it was being taken for effecting repairs and that the compensation amount granted by the Tribunal is high and excessive.

The petitioners examined PW1 and marked Exs.A1 to A5 and no evidence is adduced on behalf of the respondents. P.W.1 is the first petitioner. Ex.A1 is copy of FIR, Ex.A2, copy of inquest report, Ex.A3 is copy of post mortem certificate, Ex.A4 is copy of insurance policy and Ex.A5 is copy of final report. Basing on this evidence, the Tribunal found that the accident occurred due to the rash and negligent driving of the offending vehicle by its driver and that the deceased died due to the said accident and granted a total compensation of Rs.1,35,872/-. Aggrieved thereby the present appeal is filed by the insurance company-2nd respondent.

Though several grounds are taken in the memorandum of appeal, the learned standing counsel appearing for the appellant-insurance company has raised only one contention that the petitioners have not produced any evidence to prove the income of the deceased and the assessment of his income by the Tribunal is based on no evidence and there is no loss dependency to the family and that the compensation amount is high and excessive.

The learned counsel for the respondents-claimants submits that the Tribunal granted just and reasonable compensation and they have also not filed any cross-appeal against the said award.

There is no much contest with regard to the accident which occurred due to the rash and negligent driving of the offending vehicle by its driver

and as per Ex.A4-copy of insurance policy, the offending vehicle was insured with second respondent. Therefore, the findings of the Tribunal on this count are upheld.

Coming to the compensation part, the Tribunal found that the deceased was aged about 30 years at the time of accident and assessed his income notionally at Rs.900/- per month and after deducting 1/3rd of his income towards his personal expenditure, contribution of his income to the family was taken at Rs.600/- per month, and Rs.7,200/- per annum, and was multiplied by a multiplier of 16.51, and granted compensation of Rs.1,18,872/- towards loss of contribution of his income to his family. The Tribunal also granted Rs.10,000/- towards consortium and Rs.7,000/- towards loss of estate and funeral expenses, totaling to Rs.1,35,872/- with interest 9% PA from the date of petition till the date realization. I find no reason to interfere with the findings recorded by the Tribunal in this regard. The compensation amount awarded by the Tribunal is just and reasonable, in my view. Therefore, the award passed by the Tribunal is hereby confirmed.

In the result, the appeal is dismissed. Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

JUSTICE J. UMA DEVI

Dt. 30.1.2017
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