

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

MACMA No. 422 of 2010

JUDGMENT:

This appeal is arising out of the order dated 16.02.2010 in O.P.No.705 of 2008 on the file of the Motor Accidents Claims Tribunal (District Judge), at Nizamabad. The appellants herein are the claimants before the Tribunal.

2. Brief facts of the case are that on 28.04.2008, at about 09:00 P.M., the deceased Akula Ramulu was going on his cycle from his house to his another house at Dharpally, and when he reached Dammannapet 'T' Road, meanwhile, an auto bearing No.AP-25U-9798, driven by its driver at a high speed in a rash and negligent manner dashed the cycle of the deceased, due to which the deceased fell down and sustained injuries. Immediately after the accident, he was shifted to Dharpally village, where he succumbed to injuries while undergoing treatment. Alleging that the accident occurred solely due to rash and negligent driving by the driver of the auto, the claimants preferred the claim petition seeking compensation of Rs.6,00,000/- against respondents 1 and 2, who are the owner and insurer, respectively, of the crime auto.

3. The Tribunal, on consideration of the evidence available on record, awarded compensation of Rs.2,76,000/- against the respondents 1 and 2. Not satisfied with the quantum of compensation, the claimants preferred this appeal seeking enhancement.

4. Heard Sri V. Satyam Reddy, learned counsel for the appellants; and Sri Srinivasulu, learned counsel for the 2nd respondent-Insurance company.

5. The point for consideration in this appeal is whether the appellants are entitled to enhancement of compensation?

6. Learned counsel for the appellants submits that the Tribunal has taken the income of the deceased as Rs.3,000/- per month, whereas the appellants have stated in the claim petition and also in their evidence that the deceased was earning Rs.10,000/- per month. He further submits that the Tribunal has not awarded adequate compensation for loss of consortium and also funeral expenses, and that the Tribunal has not awarded compensation for loss of estate.

7. Learned counsel for the 2nd respondent-Insurance company submits that there is no documentary proof to the effect that the deceased was earning Rs.10,000/-, and therefore the Tribunal has rightly taken the income of the deceased as Rs.3,000/- per month as the deceased was said to be an agricultural labourer. He further submits that the Tribunal has awarded reasonable compensation and the same does not require interference.

8. As a matter of fact, the Tribunal has taken the income of the deceased as Rs.3,000/- per month, as there was no documentary proof filed by the appellants. Therefore, in view of the finding of the Tribunal, no interference is required with regard to the income of the deceased.

9. It is pertinent to note that the amount of Rs.10,000/- awarded by the Tribunal towards loss of consortium is on the lower side, and therefore, the same is enhanced to Rs.25,000/-. As far as the funeral expenses are concerned, the Tribunal awarded Rs.2,000/- and the same is enhanced to

Rs.25,000/-. The Tribunal has not awarded compensation for loss of estate and, therefore, an amount of Rs.25,000/- is awarded towards loss of estate.

10. Accordingly, the appeal is partly allowed, by enhancing the compensation awarded by the Tribunal from Rs.2,76,000/- to Rs.3,39,000/- with proportionate costs and interest at 7.5% per annum from the date of petition till realization. No costs. Miscellaneous petitions, if any pending, shall stand closed.

13th February, 2017
ksm



GUDISEVA SHYAM PRASAD, J

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