

SMT JUSTICE T. RAJANI

M.A.C.M.A. No.199 of 2008

JUDGMENT:

This appeal is preferred by the appellant—United India Insurance Company Limited, who is respondent No.4 before the Court below, assailing the judgment of the I Additional Chief Judge, City Civil Court, Secunderabad in M.V.O.P. No.185 of 2005 dated 10.09.2007 on the grounds that the lower Court failed to see that the accident occurred due to the negligence of driver of the motor cycle bearing No.AP 29 F 2694 on which the deceased travelled, that it failed to appreciate that the evidence of PWs.2 and 3 is not trust worthy as they are not direct eye witnesses to the accident, that the lower Court erred in taking the annual income of the deceased at Rs.34,044/- in the absence of any employment and that the lower Court erred in awarding separate compensation to the parents of the deceased.

2. Heard learned counsel for appellant. The learned counsel for the respondent did not appear.

3. Learned Standing Counsel for appellant contends that the lower Court, apart from awarding compensation of Rs.2,89,374/- to claimants 1 to 3, awarded separate compensation of Rs.85,110/- to claimants 4 and 5, who are the parents of the deceased.

4. A perusal of the judgment shows that the Tribunal awarded compensation for claimants 1 to 3 and 4 and 5 separately. This seems to be a strange approach. The Court below took the income of the deceased in toto while assessing the compensation for claimants 1 to 3 and also while assessing compensation for 4 and 5. That is absolutely erroneous.

5. The compensation for the loss caused by the death of the deceased has to be apportioned among the claimants and separate compensation cannot be awarded to any group of the claimants by making separate assessment. Hence, the compensation of Rs.85,110/- awarded to the claimants 4 and 5 cannot be sustained. The claimants 4 and 5 would be entitled for apportionment of compensation that is awarded to the claimants 1 to 3 which constitutes total compensation. The total award was Rs.4,02,484/- and after deducting Rs.85,110/-, the compensation comes to Rs.3,17,374/-. Out of the said compensation, 50% shall be fixed as the liability of the appellant as fixed by the lower Court. The entitlement of compensation to each of the claimant shall be apportioned as per the apportionment made by the Court below.

6. Accordingly, the appeal is partly allowed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

T. RAJANI, J

Date:05.10.2017
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