

SMT. JUSTICE T.RAJANI

MACMA. No.269 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are claimants in the lower Court, assailing the judgment dated 26.09.2007 passed in O.P. No.2720 of 2005 by the III Additional Chief Judge, City Civil Court, Hyderabad on the grounds that the lower Court ignored Ex.A-2, charge sheet, which clearly establishes rash and negligent driving of the driver of the Jeep; the lower Court failed to take into consideration the evidence of the eye witnesses; the lower Court did not determine the income of the deceased properly.

At the hearing, the learned counsel for the appellants submits that the approach of the lower Court in deciding issue No.1 i.e., "*Whether Sri L.Chndra Reddy died on 6/2/2005 due to rash and negligent driving of Jeep No.AP 24C 108?*" against the appellants, claimants, is far from the established principles. The lower Court relied on the judgment, Ex.B-1, which is rendered in the criminal case filed against the driver of the Jeep, wherein he was acquitted. This Court would like to observe that the standard of proof in a criminal case is totally different from the standard of proof in a civil case and that is the premise on which law has got well settled that the judgment in criminal case will not be binding in civil proceedings. The reasons for acquitting the accused in a criminal case would be due to the prosecution's failure to prove the case beyond all reasonable doubt, whereas preponderance of probabilities would suffice to prove an issue in a civil case. Hence the approach of the lower Court in relying on Ex.B-1 solely, for concluding that there was no negligence on the part of the driver of the Jeep is erroneous. Exs.A-1 and A-2, FIR and charge sheet, respectively, show that the accident occurred due to negligence of the driver of the Jeep. There is no contra evidence adduced

by the respondents on that issue. Hence, the judgment of the lower Court insofar as its finding on the first issue is concerned is set aside and it is held that the accident occurred due to rash and negligent driving of the driver of the crime vehicle.

The learned counsel for the appellants did not press on another ground raised in the appeal i.e. with regard to the income of the deceased, however, it can be seen from the award of the lower Court , that the deceased was an agriculturist and by considering that the land would be still available to the legal heirs, Rs.3,000/- per month was taken as supervisory charges, to which loss the claimants would be put to. Hence, to the extent indicated above, judgment of the lower Court is set aside and the award passed by the lower Court shall stand against the respondents 1 to 3 and they are liable to pay the compensation i.e. 4,53,000/-, jointly and severally.

Further, as could be seen from the award of the lower Court, it did not grant any interest on the awarded amount. Hence, 7.5% is specified to be the interest on the awarded amount from the date of the petition till the date of its realization.

Since the lower Court did not make any apportionment, the apportionment can be made as follows:

Rs.2,28,000/- (rupees two lakhs and twenty eight thousand only) to the first petitioner, Rs.75,000/- (rupees seventy five thousand only) to each of the petitioners 2 to 4.

The respondents are directed to deposit the aforementioned sum within a period of one month from the date of this judgment. On such deposit, considering the longevity of the case, the petitioners are permitted to withdraw the same.

In the result, the appeal is partly allowed by modifying the judgment of the Court below to the extent indicated hereinabove.

JUSTICE T.RAJANI

Date: 24.03.2017
LSK

