

HONOURABLE Dr. JUSTICE SHAMEER AKTHER

M.A.C.M.A.No.516 OF 2006

JUDGMENT:

This claim petition is filed by the appellants-claim petitioners for enhancement of compensation under Section 173 of the Motor Vehicles Act on account of death of deceased Sheethal Singh in a motor accident which occurred on 19.02.2002.

The appellants-claimants filed the appeal aggrieved by the Order/Award dated 18.01.2006 in M.V.O.P.No.581 of 2003 on the file of Motor Accidents Claims Tribunal-cum-IV Additional Metropolitan Sessions Judge-cum-XVIII Additional Chief Judge, Hyderabad (*for short, 'Tribunal'*) awarding compensation of Rs.60,000/- with interest at 7.5% p.a. against the claim of Rs.2.50 lacks in the claim petition under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*).

Heard the learned counsel for claimants and learned standing counsel for the insurance company. Perused the material on record.

The parties hereinafter are referred to as arrayed before the Tribunal for the sake of convenience.

The short point that arises for consideration in this appeal is whether the compensation of Rs.60,000/- awarded by the Tribunal is just and reasonable?

There is no much contention with regard to the rash and negligence on the part of the driver of the crime vehicle lorry bearing No.AHT 1850. There is also no denial on the part of the insurance company with regard to the valid insurance of the crime vehicle on the date of the accident. As seen from Ex.B-1 insurance policy, the crime lorry

is insured with the second respondent-M/s. United India Insurance Company at the time of the accident.

Though the appellants-claim petitioners contended that the deceased Sheethal Singh died due to the injuries suffered in the motor accident, the Tribunal while dealing with the evidence of PWs.1 to 3 and perusal of documents Exs.A-1 to A-8 marked on behalf of the appellants determined that there is no evidence to believe that the deceased died due to the injuries suffered in the accident.

While determining the quantum of compensation, the Tribunal awarded compensation on the following scores:

- i) Rs.25,000/- for the communitied fracture of left tibia,
- ii) Rs.20,000/- towards medical expenses,
- iii) Rs.5,000/- towards transportation, special diet etc.
- iv) Rs.10,000/- towards loss of income during the period of treatment undergone by the deceased.

In all, the Tribunal awarded total compensation of Rs.60,000/-.

Since the deceased died before filing the claim petition, it is not appropriate to deal with the compensation awarded on different heads except whether the compensation awarded towards attendant charges, special diet and transportation.

As seen from the record, the accident occurred on 19.02.2002 and the deceased underwent treatment up to 25.03.2002. The Tribunal awarded Rs.5,000/- only towards transportation, special diet which is very low and did not grant attendant charges. Since the deceased died within one month from the date of accident, someone or the other was attending the deceased. Therefore, taking all those scores into consideration, the compensation payable is determined as hereunder:

1. Rs.10,000/- is awarded towards attendant charges.
2. Rs.5,000/- is awarded towards transportation charges.
3. Rs.5,000/- is awarded towards special diet since the deceased underwent treatment and became sick for the injury for a considerable period.

Taking the above calculation into consideration, in all, the appellants-claim petitioners are entitled to total compensation of Rs.75,000/- with interest at 7.5% per annum.

In the result, the appeal is partly allowed enhancing the compensation to Rs.75,000/- (Rupees seventy five thousand only) from Rs.60,000/- to the appellants with interest at 7.5% per annum from the date of the petition till the date of realization payable by the second respondent-M/s.United India Insurance Company Limited. All the claim petitioners are entitled for equal compensation. The claimants are entitled to withdraw the entire amount. There shall be no order as to costs.

Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Date:20-01-2017
CCM

Dr. SHAMEEM AKTHER, J

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Date:20.01.2017

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