

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.2957 of 2014

JUDGMENT:

This appeal is arising out of the award and decree dated 06.08.2013 in M.V.O.P. No.167 of 2005 on the file Motor Accidents Claims Tribunal—cum—II Additional District Judge, Kadapa at Proddatur, in claiming compensation of Rs.28,00,000/- on account of death of Aregala Sreenivasulu in the motor accident occurred on 20.05.2003.

2. The brief facts of the case are as under:

a) on 20.05.2003, the deceased and another by name Jayaramudu were proceeding on a motor cycle bearing No.AP 04 D 2933, and one Obulesu and another were also proceeding on another motor cycle bearing No.AP 04 D 5362 and all of them were going to Allagadda and Kanaguduru to distribute wedding cards of the 1st daughter of the deceased. The rider of the deceased motor cycle was riding with normal speed on extreme left side of the road. When they crossed Duvvuru Village and reached near Srirama temple turning on NH 18, the lorry of 1st respondent bearing No.ABC 9339 came in opposite direction i.e., from Allagadda side in a rash and negligent manner with high speed without blowing horn dashed against the motor cycle, the deceased was traveling, as a result, the rider of the deceased motor cycle fell down from the motor cycle and died on the spot and the deceased, being the pillion rider, sustained head injury and became unconscious. On the complaint of the brother of the deceased, a case was registered against the driver of the lorry. At the first instance, the deceased was shifted to Government Hospital, Proddatur. As his condition

was serious, he was shifted to Government General Hospital, Kurnool, where he took treatment for five months as inpatient and thereafter, he took treatment at National Institute of Mental Health Sciences, Bangalore, where they spent Rs.2 lakhs towards treatment besides Rs.20,000/- towards transport charges. Later, as his mental condition was serious, two attendants were with him till his death.

3. On consideration of the facts and circumstances of the case and in the light of the arguments advanced by learned counsel for the appellants, this Court is of the view that the appellants could not produce the evidence to prove the salary certificate—Ex.A7, medical treatment and medical bills—Ex.A10 to A13. M.V.Act is a beneficial legislation. Due to the poverty and illiteracy, the appellants could not produce the evidence before the Tribunal. The appellants are entitled for just and reasonable compensation. Considering all these aspects and at the request of learned counsel, the matter is remitted to trial Court directing:

- i) to give an opportunity to the appellants to produce the employer of the deceased to prove the salary certificate—Ex.A7.
- ii) to permit the appellants to produce medical evidence to prove the medical expenditure incurred by them for treatment of the deceased in various hospitals under Exs.A10 to A.13.
- iii) to give an opportunity to the respondent/ Insurance Company to cross examine the witnesses and produce their evidence, if any,

iv) the Tribunal on consideration of evidence of both the parties and after hearing arguments, may dispose of the matter, within two (2) months from the date of receipt of copy of this order.

4. Accordingly, the appeal is disposed of and the order passed by the Tribunal is hereby set-aside to the extent of award of questioning compensation. No order as to costs.

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

09.11.2017.
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GUDISEVA SHYAM PRASAD, J

