

HON'BLE SRI JUSTICE M.S.K.JAI SWAL

M.A.C.M.A.No.1226 of 2010

JUDGMENT:

This appeal is filed by the claimants in O.P.No.411 of 2007 on the file of the learned Motor Accident Claims Tribunal-cum-V Additional District Judge, (FTC) Anantapur (for short 'the Tribunal') being aggrieved by the judgment and decree, dated 21.04.2008, by and under which the Tribunal awarded a sum of Rs.2,40,000/- as against the claim of Rs.4,00,000/- for the death of the deceased M.Peddanna in the motor accident that took place on 17.10.2006.

Briefly the case of the appellants is that they are the wife and daughter of the deceased M.Peddanna. On 17.10.2006 the deceased along with 4 persons of Kalagalla village engaged an Auto bearing registration No.AP02-W2062 to go to Penakacherla village and when the auto reached near Sugali Bojjanna Gori, the driver of the auto drove the vehicle in a rash and negligent manner, due to which, the vehicle turned turtle, the deceased and other persons sustained injuries. While undergoing treatment, the deceased succumbed to injuries. By the time of accident, the deceased was hale and health, aged about 48 years and he was doing agriculture and kirana business and getting Rs.8,000/- per month. The 1st respondent is the owner of the offending vehicle and the 2nd respondent the insurer.

On behalf of the insurance company, it was contended that at the time of accident, more number of passengers were traveling in the auto and due to uncomfortable driving, the accident occurred and the 1st respondent violated the terms and conditions of the policy and hence the insurance company is not liable for any compensation.

Basing on the rival contentions, the Tribunal framed the following issued for trial:

- 1) Whether the accident occurred due to rash and negligent act of the driver of the auto bearing No.AP-02-W-2062 or not?
- 2) Whether the petitioners are entitled to any compensation? If so, to what amount and from which of the respondent?
- 3) To what relief?

On behalf of the claimants, PW 1 was examined and Exs.A1 to A3 are produced. On behalf of the respondents, RW 1 was examined and Exs.B1 to B5 are marked.

On appreciation of oral and documentary evidence, by the impugned judgment and decree, the Tribunal awarded total compensation of Rs.2,40,000/- against the claim of Rs.4,00,000/- Aggrieved by the said award, the present appeal is filed by the claimants.

The appellants who are the claimants being the wife and daughter of the deceased Peddanna were not satisfied with the quantum of compensation that is awarded to them by the Tribunal. As noted above, the Tribunal has determined the compensation at Rs.2,40,000/- as against the claim of Rs.4,00,000/-. The contentions of the Insurance Company insofar as the violation of the terms of the policy, excess passengers in the auto and denial of the liability has been disbelieved by the Tribunal and no appeal there against is preferred. What is required to be seen is as to whether the compensation is just and reasonable. The deceased was aged about 48 years. According to the wife-PW.1, her husband was having agricultural income also, doing Kirana business and earning Rs.8,000/- per month. However, no satisfactory evidence except self-serving statement of PW.1 has been produced. Therefore, the Tribunal took the notional income of the deceased at Rs.2,400/- per month. After deducting 1/3rd there from, the

Tribunal has applied the multiplier '12', according to the age of the deceased, and determined the loss of dependency at Rs.2,30,400/-. In addition to that, a sum of Rs.5,000/- towards consortium, Rs.2,000/- towards funeral expenses and Rs.2,500/- towards loss of estate has been granted.

Upon carefully perusing the oral and documentary evidence on record and also the impugned award, I see no reason to differ from the same and there is no substance in the contention of the petitioners that they are entitled to compensation more than what has been awarded by the Tribunal. The proper methods and calculation has been adopted and the Tribunal has determined the compensation at Rs.2,40,000/-, which in my opinion do not warrant any interference. There are no merits in the appeal and the same is liable to be dismissed.

In the result, the appeal is dismissed. Pending miscellaneous petitions, if any, shall stand closed in consequence.

Date: 12th June, 2017
Dsr

M.S.K.JAI SWAL, J

