

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No. 3050 OF 2007

JUDGMENT:

The United India Insurance Company Limited, represented by its Branch Manager, Jagitial, Karimnagar District, who is respondent No.3 in O.P. No.45 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Karimnagar at Jagitial (for short, 'the Tribunal') filed the present appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') challenging the order dated 03.11.2006, whereby the Tribunal awarded an amount of Rs.2,70,000/- in favour of respondent Nos.1 to 5-claimants against the appellant-insurer and respondent Nos.6 and 7-rider and owner of the crime vehicle.

2. The aforesaid O.P. was filed by respondent Nos.1 to 5 herein under Section 166(1) of the Act claiming Rs.3,00,000/- towards compensation for the death of their sole bread earner-Podeti Ganaiah, who is the husband of respondent No.1, father of respondent Nos.3 to 4 and son of respondent No.5, in a road accident occurred on 16.07.2005 due to rash and negligent driving of respondent No.6 herein-rider of motorcycle bearing registration No.AP 15Q 7420.

3. Heard the learned Standing Counsel for the appellant-insurer and the learned counsel for respondent Nos.1 to 5-claimants, apart from perusing the material available on record. It is endorsed in the cause title of the grounds of appeal that respondent No.6-rider of the crime vehicle is not necessary party in

this appeal. No representation on behalf of respondent No.7-owner of the crime vehicle.

4. The contention of the appellant-insurer is that respondent No.6-rider of the crime vehicle i.e., motorcycle bearing registration No.AP 15Q 7420, was not possessing valid driving licence; the Tribunal ought to have applied multiplier '10.45' instead of '13'; the Tribunal has erroneously taken the income of the deceased as Rs.30,000/- per annum and awarded an amount of Rs.2,70,000/-, which is excessive; there are violations with regard to terms and conditions of the insurance policy of the crime vehicle; and ultimately, prays to allow the appeal dismissing the claim against the appellant-insurer.

5. Learned counsel appearing on behalf of respondent Nos.1 to 5-claimants would submit that respondent No.6-rider of the crime vehicle was holding valid driving licence at the time of accident; the Tribunal has rightly applied multiplier '13', taken the income of the deceased as Rs.30,000/- per annum and granted Rs.2,70,000/-, which is just and reasonable; there is nothing to take a different view; and ultimately, prays to dismiss the appeal.

6. In view of the contentions putforth by both sides, the following points have come up for determination:

- (1) Whether respondent No.6 herein-rider of the crime vehicle, i.e., motorcycle bearing registration No.AP 15Q 7420, was possessing valid driving licence at the time of the accident?

- (2) Whether the compensation granted by the Tribunal is excessive?
- (3) Whether the order under appeal is liable to set aside?

7. Point No.1: While arguing the case, learned Standing Counsel appearing on behalf of the appellant-insurer submits that on verification of the records by the Insurance Company employees, it was found that respondent No.6 herein-rider of the crime vehicle was possessing LMV driving licence and Motorcycle with Gear driving licence, which was valid on the date of the accident. So, it can be safely concluded that respondent No.6-rider of the crime vehicle was having a valid driving licence on the date of occurrence of the accident. This point is answered accordingly.

8. Point Nos.2 and 3: The contention of the learned Standing Counsel for the appellant-insurer is that the Tribunal ought to have taken multiplier '10.45' instead of '13'. In the case on hand, the age of the deceased was 45 years as per the post-mortem examination report marked as Ex.A.4. The other ocular and documentary evidence also shows that the age of the deceased was 45 years at the time of the accident. The Tribunal applied multiplier '13', relying on the decision of this Court in **Nidamanuri Ramana Kumar and others v. Erukula Sessa Rao and another**¹, holding that the deceased was aged between 45 and 50 years. No irregularity can be found in this finding of the Tribunal. As per the decision rendered by the Hon'ble Supreme Court in **Sarla Verma &**

¹ 2006(4) ALD 689

others v. Delhi Transport Corporation and another², the suitable multiplier applicable for the age of the deceased, i.e., between 46 and 50 years, is '13'. So, the application of the multiplier cannot be faulted.

9. So far as the income of the deceased is concerned, the Tribunal has taken the annual income of the deceased as Rs.30,000/- on the ground that the deceased was an agriculturist. It cannot be faulted, since the Tribunal has taken the annual income of the deceased basing on the evidence available on record. The Tribunal has rightly appreciated all the facts and circumstances of the case and granted adequate and just compensation. There is nothing to interfere with the findings of the Tribunal. Therefore, the order under appeal is liable to be confirmed. Accordingly, point Nos.2 and 3 are answered.

10. In the result, this appeal is dismissed, confirming the impugned order dated 03.11.2006 passed by the Tribunal in O.P. No.45 of 2006. There shall be no order as to costs.

11. Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 16.06.2017

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² (2009) 6 SCC 121