

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

C.R.P. No.4858 of 2017

ORDER:

This Civil Revision Petition is filed by the petitioners aggrieved by the order in I.A.No.350/2017 in M.V.O.P.No.99/2015 on the file of Judge, Family Court-cum-VI Additional District Judge, Kadapa, whereunder the learned Judge dismissed the petition filed by the petitioners under Order VI Rule 17 CPC seeking to enhance the claim from Rs.7,00,000/- to Rs.12,00,000/-.

2) It must be said, this Court is constrained to observe that the order is perverse. While seeking enhancement of the claim from Rs.7,00,000/- to Rs.12,00,000/-, the petitioners stated that while filing the OP claiming compensation for the death of the husband of 1st claimant in a motor vehicle accident, they intended to claim Rs.12,00,000/-, but due to lack of funds they claimed only Rs.7,00,000/- and thereafter they secured money to pay Court Fee on Rs.12,00,000/- and therefore, the petition may be allowed. The respondents ofcourse opposed the petition. The Trial Court dismissed the petition on the curious and untenable observation that the petitioners failed to prove that they secured money for payment of Court Fee on the proposed compensation amount of Rs.12,00,000/- and therefore, the petitioners do not deserve enhancement.

3) It is the case of the petitioners that they secured money to pay Court Fee on the differential amount of Rs.5,00,000/- (Rs.12,00,000/-

minus Rs.7,00,000/-) and they are ready to pay the additional Court Fee if the petition is allowed. In such a case, it is not apposite on the part of the Trial Court to dismiss the petition on the untenable ground that the petitioners have not produced any evidence to show that they secured the money for payment of Court Fee. Instead, the Court could have allowed the enhancement petition with a condition that in the event petitioners failed to deposit the additional Court Fee within a stipulated time, the order shall be cancelled. The Trial Court shall note that Motor Vehicle Act, 1988 is a socio-beneficial legislation intended to provide succor to victims of the motor vehicles accident and their kin and therefore, the orders passed by the Motor Accidents Claims Tribunals shall sub-serve the said noble objective. It shall also be noted that mere permission to enhance the claim does not mean the Tribunal approved the original or enhanced claim. On the other hand, the claimants have to establish their claim during trial.

4) In the result, this C.R.P is allowed by setting aside the impugned order and consequently, I.A.No.350/2017 in M.V.O.P.No.99/2015 is allowed. The Trial Court shall fix a reasonable time for payment of additional Court Fee on the enhanced claim. No order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 06.11.2017

scs