

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.475 of 2008

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-Insurance Company aggrieved by the order dated 28.09.2007 in O.P.No.1729 of 2005 on the file of the V Additional Metropolitan Sessions Judge (Mahila Court)-cum-XIX Additional Chief Judge, City Criminal Court, Hyderabad.

2. Heard the learned counsel for the appellant-Insurance Company and the learned counsel for the respondents-claimants and perused the record.

3. Learned counsel for the appellant-Insurance Company would contend that the Court below granted compensation of Rs.2,60,000/-, which is excessive and ultimately prayed to reduce the same.

4. On the other hand, learned counsel for the respondents-claimants would contend that the Court below justified in granting compensation of Rs.2,60,000/- with interest @ 7% per annum. There is no infirmity in the order under challenge. There are no grounds to interfere with the same and prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the point that arises for determination is, whether the compensation granted by the Court below is excessive?

6. There is no dispute with regard to the death of the deceased-Kavitha Agarwal in a road accident caused by lorry

bearing No.AP 4T 7064 being driven by its driver in a rash and negligent manner on 05.07.2005. The dispute is only with regard to quantum of compensation.

7. As per the material available on record, the deceased was 20 years old. P.W.1 deposed that the deceased was working as Computer Operator and earning Rs.5,000/- per month. Considering the totality of the circumstances, the Court below took Rs.20,004/- per annum towards loss of future income to the respondents-claimants and applied multiplier '12' by taking the age of mother of the deceased and assessed compensation of Rs.2,40,000/- towards loss of future income. The Court below also granted Rs.20,000/- towards loss of love and affection. In total, the Court below granted compensation of Rs.2,60,000/- to the claimants.

8. In view of the decision rendered in *National Insurance Company Limited v. Pranay Sethi and others*¹, an amount of Rs.30,000/- has to be granted towards conventional heads, but the Court below granted Rs.20,000/- towards conventional heads. Under these circumstances, the compensation of Rs.2,60,000/- is not excessive and there are no grounds to interfere with the order under challenge. The appeal is devoid of merit and is liable to be dismissed.

9. In the result, the appeal is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

Date: 24.07.2018

¹ 2017(6)ALD 170(SC)

ssp

