

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2622 OF 2007

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/the New India Assurance Company Limited, aggrieved by the grant of compensation of Rs.2,35,000/- with proportionate costs and future interest at the rate of 7.5% per annum from the date of petition till deposit, as against a claim of Rs.3,00,000/- to the respondents 1 to 3/claimants, by the learned Chairman, Motor Accident Claims Tribunal – cum – I Additional Chief Judge, City Civil Court, Secunderabad (for short, “the Tribunal”) *vide* order, dated 05.03.2007, passed in M.V.O.P.No.35 of 2005.

2. Heard the submissions of the learned Standing Counsel appearing for the New India Assurance Company Limited representing the appellant and the learned counsel for the respondents 1 to 3/claimants, and perused the material on record.

3. Learned Standing Counsel for the New India Assurance Company Limited representing the appellant would contend that there was no rashness or negligence on the part of the driver of TATA Indica Car bearing No.AP 36V 0004; that the Tribunal had granted excessive compensation without taking into account the correct multiplier and ultimately, prayed to set aside the impugned order and allow the appeal as prayed for.

4. On the other hand, learned counsel for the respondents 1 to 3/claimants would contend that the Tribunal had taken all the

factors into consideration and granted just and reasonable compensation; that there are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the following points come up for determination:

“1. Whether the deceased N.Sathaiah died due to the rash and negligent driving of the driver of TATA Indica Car bearing No.AP 36V 0004? and

2. Whether the compensation of Rs.2,35,000/- awarded by the Tribunal with proportionate costs and future interest at the rate of 7.5% per annum from the date of petition till deposit of the said amount is liable to be set aside?”

6. **POINT No.1:-**

There is ample evidence on record to hold that on 17.12.2004, the driver of TATA Indica Car bearing No.AP 36V 0004 came with high speed in a rash and negligent manner from Hyderabad towards Chegunta Road and dashed the deceased N.Sathaiah due to which, the deceased suffered grievous injuries and died on the spot. The entire criminal case record reveals the rashness and negligence on the part of the driver of TATA Indica Car bearing No.AP 36V 0004. Therefore, the Tribunal rightly held this issue in favour of the claimants.

7. **POINT No.2:-** As per Ex.A-3 – certified copy of Post Mortem Examination Report, the deceased N.Sathaiah was 21 years old as on the date of accident and he was working as a labourer. Since the deceased was unmarried, the Tribunal had taken into consideration the average age of his parents/claimants 1 and 2 i.e., 42 years, applied multiplier “15” and took the notional income

of the deceased as Rs.15,000/- per annum and assessed the loss of future earnings as Rs.2,25,000/-. The Tribunal awarded an amount of Rs.10,000/- towards funeral expenses and ultimately, granted compensation of Rs.2,35,000/- with proportionate costs and future interest at the rate of 7.5% per annum from the date of petition till deposit. For the death of a person of 21 years, who was a labourer, granting compensation of Rs.2,35,000/- cannot be said to be excessive. There are no circumstances to interfere with regard to the quantum of compensation. The appeal is devoid of merit and is liable to be dismissed.

8. In the result, the appeal is dismissed. There shall be no order as to costs.

9. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 13.08.2018
AMD



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