

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.5174 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 16.04.2002 in O.P.No.143 of 2000 on the file of the Motor Accident Claims Tribunal-cum-I Additional District Judge, Ranga Reddy District at L.B. Nagar, Hyderabad.

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

3. This matter underwent several adjournments for want of submissions on behalf of the appellant. Today also, there is no representation for the appellant though the matter is posted under the caption 'for orders'. Hence, it can be disposed of on merits.

4. Learned counsel for the respondent-claimant would contend that the Tribunal had rightly fastened the liability against the appellant-Insurance Company. There is no infirmity in the impugned order. The Tribunal granted just and reasonable compensation. There are no circumstances to interfere with the same and ultimately prayed to dismiss the appeal.

5. This appeal is filed contending that the deceased was a gratuitous passenger in the goods vehicle. The Tribunal granted excess compensation and ultimately prayed to set aside

the impugned order passed against the appellant-Insurance Company.

5. In view of the facts and circumstances of the case, the points that arise for determination are:-

1. Whether the grant of compensation of Rs.3,21,960/- with interest @ 9% per annum is liable to be reduced?
2. Whether the impugned order passed against the appellant-Insurance Company is liable to be set aside?

6. In view of the oral and documentary evidence, on 27.08.1999, when the deceased-Vangala Madhusudhan Reddy was travelling in a Bajaj pick up van bearing No.AP 24U 1519, he succumbed to the injuries sustained by him in a road accident occurred due to rash and negligent driving of the driver of the said van. There is nothing to take a different view. Claimant No.1-wife and claimant No.2-son are the dependents of the deceased. Basing on the oral and documentary evidence, the Tribunal took the age of the deceased as 40 years, applied relevant multiplier and assessed the compensation at Rs.3,06,960/- towards loss of dependency. The Tribunal also granted Rs.15,000/- towards loss of consortium. In total, the Tribunal granted compensation of Rs.3,21,960/- to the claimants, which cannot be faulted with. The only point is whether the order passed against the appellant-Insurance Company is liable to be set aside.

7. As per the evidence on record, on 27.08.1999, when the deceased was travelling in Bajaj pick up van bearing No.AP 24U 1519 along with guava fruits as its owner, the driver of the

said van drove the van in a rash and negligent manner, due to which the deceased died. There is admission of R.W.1 that the offending vehicle is a goods carrying vehicle and the deceased was carrying goods along with him at the time of accident. Ex.B1 is the copy of insurance policy issued by the appellant-Insurance company. There is also specific evidence of R.W.1 that there were goods in the vehicle and the owner of the said goods was sitting by the side of the driver. A clear finding is recorded by the Tribunal i.e., the deceased was the owner of the goods in the offending vehicle. The Tribunal rightly directed the appellant as well as the owner of the offending vehicle to pay the compensation jointly and severally to the claimants. There is no infirmity in the impugned order. There is nothing to take a different view. The appeal is devoid of merit and is liable to be dismissed.

8. In the result, the appeal is dismissed.

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

Date: 17.07.2018
ssp

Dr. SHAMEEM AKTHER, J