

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3285 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), is filed by the appellant-United India Insurance Company Limited, challenging the order, dated 08.07.2005, passed in M.V.O.P.No.27 of 2004 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Warangal ('the Tribunal', for brevity).

2. Heard the learned Standing Counsel for the appellant-Insurance Company, the learned counsel for the respondents 1 to 4/claimants and perused the record.

3. The learned Standing Counsel for the appellant-Insurance Company would contend that the Tribunal granted excess compensation of Rs.3,77,000/- with interest @ 7.5% per annum from the date of petition till realisation in favour of the respondents 1 to 4/claimants, as against a claim of Rs.6,00,000/-. Without there being any evidence on record, the Tribunal held that the subject accident occurred due to rash and negligent driving of the driver of the auto bearing registration No.AP-36-U-4640. The Tribunal erroneously took the monthly income of the deceased as Rs.3,000/-, and ultimately prayed to allow the appeal by setting aside the order under challenge.

4. On the other hand, the learned counsel for the respondents 1 to 4/claimants would contend that the Tribunal had taken all the relevant factors into consideration and rightly granted a

compensation of Rs.3,77,000/- in favour of the respondents 1 to 5/claimants. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. In view of the above rival contentions, the points that arise for determination in this appeal are as follows:-

1. Whether the deceased-K.Ravinder died in the subject accident occurred on 15.07.2003, due to rash and negligent driving of the driver of the auto bearing registration No.AP-36-U-4640.
2. Whether the impugned order of the Tribunal is liable to be confirmed/ set aside.

Point No.1:-

6. The evidence of P.W.2 coupled with the criminal case record under Ex.A.1-Attested copy of FIR and Ex.A.4-Attested copy of Charge-sheet substantiates that the subject accident occurred due to rash and negligent driving of the driver of the auto bearing registration No.AP-36-U-4640. On the other hand, no evidence has been adduced on behalf of the appellant-Insurance Company to rebut the evidence on the side of the claimants. Under these circumstances, the Tribunal rightly held that the subject accident occurred due to rash and negligent driving of the driver of the auto bearing registration No.AP-36-U-4640. There is nothing to take a different view. This point is accordingly answered against the appellant-Insurance Company and in favour of the respondents 1 to 4/claimants.

Point No.2:-

7. As far as assessment and grant of compensation is concerned, the Tribunal took the age of the deceased as 40 years, monthly

income as Rs.3,000/-, deducted 1/3 of it towards personal expenses of the deceased and by applying relevant multiplier '15', granted a compensation of Rs.3,60,000/- towards loss of dependency. The Tribunal further granted an amount of Rs.10,000/- towards loss of consortium and love and affection, Rs.5,000/- towards loss of estate and Rs.2,000/- towards funeral expenses. In all, the Tribunal granted a compensation of Rs.3,77,000/- with interest @ 7.5% per annum from the date of petition till realisation in favour of the respondents 1 to 4/claimants. Grant of said compensation for a man aged 40 years, who is an earning person on whom the claimants were dependants, cannot be held to be excessive. There are no circumstances to interfere with the impugned order. The appeal is devoid of merit and is liable to be dismissed.

8. In the result, the appeal is dismissed. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

10th September, 2018
Bvv

Dr. SHAMEEM AKTHER, J