

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1885 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant under Section 173 of the M.V. Act, aggrieved by the order, dated 05.12.2005, in M.V.O.P.No.425 of 2005, passed by the Principal Motor Accident Claims Tribunal-cum-District Judge, Warangal, for enhancement of compensation.

2. Heard the learned counsel for the appellant. There is no representation for the respondent-Insurance Company, despite service of notice.

3. Learned counsel for the appellant would submit that the Tribunal assessed compensation at Rs.1,50,000/-, but granted Rs.1,00,000/-. In the circumstances, the appellant is entitled for enhancement of compensation of Rs.1,50,000/- and ultimately, prayed to enhance the compensation.

4. In the circumstances narrated, the only question is whether the appellant is entitled for enhancement of compensation?

5. The impugned O.P. was filed for grant of compensation of Rs.1,00,000/- on account of death of deceased, minor boy by name, Sk.Azaruddin @ Ashok, who is son of the claimant, in road accident occurred on 19.06.2004 due to rash and negligent driving of the driver of Tata Sumo vehicle bearing No.AP 22D 8181 On behalf of the appellant, P.W.1, who is the father of the deceased and P.W.2-Chalpur Sambaiah were examined and Exs.A1 to A5 were marked. Ex.A1 is the attested copy of F.I.R., Ex.A2 is

the attested copy of MVI report, Ex.A3 is the attested copy of post-mortem examination report, Ex.A4 is the attested copy of charge sheet and Ex.A5 is the attested copy of inquest.

6. As per the oral and documentary evidence, it can safely be concluded that the deceased was below 15 years old. The appellant is his father. The deceased was said to be studying 2nd class. He was not an earning member. The Tribunal assessed the compensation taking the notional income of the deceased as Rs.10,000/- and by applying multiplier 15, worked out the compensation payable to the appellant at Rs.1,50,000/- and ultimately, awarded the compensation claimed i.e., Rs.1,00,000/- as claimed with interest at 7.5% per annum from the date of petition till the date of deposit. There is only one claimant, i.e, father of the deceased. The claimant ought to have filed the application claiming compensation of Rs.1,50,000/-. But, he did not choose to do so. When the Tribunal had granted total compensation claimed, no infirmity or fault as the case may be is found on the part of the Tribunal. Therefore, the appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, the Appeal is dismissed confirming the order, dated 05.12.2005, in M.V.O.P.No.425 of 2005, passed by the Principal Motor Accident Claims Tribunal-cum-District Judge, Warangal. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 19-06-2018

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