

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.37 OF 2015

JUDGMENT:

This appeal is filed by the appellant-Insurance Company aggrieved by the Order and Decree dated 02.07.2014 passed in O.P.No.327 of 2013 by the Motor Vehicles Accidents Claims Tribunal-cum-II Additional District Judge at Visakhapatnam (for short, 'the Tribunal').

2. The brief facts of the case are that on 30.01.2013 the deceased by name Vallabhadas Venkatesh and his cousin went to Visakhapatnam on a motorcycle, bearing No.AP 31 CB 3011 for purchase of clothes and after completion of shopping they were returning to Anakapalle on NH 16 Road, Anakapalle. At about 24.00 hours, the first respondent who is the driver of the offending lorry bearing No.AP 31 X 7549 drove the same in a rash and negligent manner and dashed against the motorcycle of the deceased. As a result of which, the deceased fell down and the offending lorry ran over him resulting his instantaneous death. The cousin of the deceased sustained fracture injury to her left leg. In connection with the said accident, a case in Cr.No.7 of 2013 was registered under Sections 304-A and 338 of IPC against the first respondent. The deceased was aged 25 years and was earning Rs.15,000/- per month by working as Junior Lecturer. The appellants who are mother and sister of the deceased, claiming to be dependents on the deceased, filed the above OP claiming

compensation of Rs.10,00,000/- against respondents 2 and 3, who are the owner and insurer of the aforesaid lorry, for the death of the deceased in the said accident.

3. The respondents filed their written statements denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the lorry allowed the O.P partly and awarded total compensation of Rs.7,15,000/- i.e., Rs.6,80,000/- towards loss of dependence, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate. The Tribunal awarded interest at 7.5% p.a. from the date of filing of the petition till the date of deposit. The Tribunal apportioned the above compensation as Rs.6,00,000/-to the first claimant and Rs.1,15,000/-to the second claimant.

5. Heard.

6. Before the Tribunal, the documentary evidence produced by the claimants in the shape of Ex.A.1- FIR, A.2- Charge sheet, Exs.A.3 and A.4 – Inquest report and P.M.Certificates clinchingly establish that the deceased died in the accident that occurred on 30.01.2013 due to the rash and negligent driving of the driver of the offending lorry. The evidence of P.W.3 coupled with Ex.A.20

reveals that the deceased was working as Junior Lecturer in the Institute of P.W.3 and was earning Rs.5,000/- p.m. Basing on the evidence available on record, the Tribunal fixed the multiplier as 17 for the age group of 26 to 30 years. The Tribunal passed a well considered order by taking into consideration all the aspects and hence, I see no grounds to interfere with the order of the Tribunal.

7. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

Date: 06.12.2018
Rns

T.AMARNATH GOUD, J

