

THE HON'BLE MS.JUSTICE J.UMA DEVI

M.A.C.M.A.No.1703 of 2010

ORDER:

Aggrieved by the Award dated 28.03.2006 passed in M.V.O.P.No.650 of 2004 by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Medak at Sangareddy, the present appeal is filed by the National Insurance Company Limited, which has been held liable to pay compensation of Rs.4,62,000/- to the respondents 1 and 2, who are his wife and daughter of the deceased-Chowtukuri Chandra Reddy, together with interest at 7.5% per annum from the date of filing of the petition till realisation along with 3rd respondent herein, who is the owner of the offending lorry bearing No.AP-22/U-3000.

2. The facts which led to the appellant-Insurance Company to file the present appeal are briefly stated as under:

Respondents 1 and 2 are the claimants in M.V.O.P.No.650 of 2004 and the 3rd respondent is the owner of the crime lorry bearing No.AP-22/U-3000. It is stated by the respondents 1 and 2, who are the claimants in M.V.O.P.No.650 of 2004, that on 06.08.2004 at about 1.30 P.M. while the deceased-Chowtukuri Chandra Reddy was proceeding in a car bearing No.AP-23/F-2964, and when it reached the limits of Thunkimetla village, a lorry bearing No.AP-22/U-3000, which was loaded with cement, came towards the said car in a rash and negligent manner and dashed it and as the result of it, the deceased received grievous injuries and succumbed to the said injuries while undergoing treatment in a hospital. Police of Bommaraspet registered a case in Crime No.50 of 2004 for the offences punishable under Sections 337, 338 and 304-A IPC against the driver of the lorry bearing No.AP-22/U-3000, who was responsible for the occurrence of accident which resulted the death of the deceased. The claimants-respondents 1 and 2

also asserted that the deceased was getting income of Rs.10,000/- per month through cultivation and was contributing the same for their maintenance. Due to sudden demise of the deceased, the claimants-respondents were put to hardship, as they lost the breadwinner of their family. They laid the claim against the owner and insurer of the offending lorry for a sum of Rs.7,00,000/- before the Court below. The Court below on appreciation of the evidence on record allowed their claim in part by awarding compensation of Rs.4,62,000/- and made the appellant and the owner of the offending lorry liable to pay such amount together with interest from the date of filing of his petition till realization.

3. In the grounds of appeal, the appellant-insurance company stated that the amount of Rs.4,62,000/- awarded to the claimants in respect of death of the deceased in a road accident that occurred on 06.08.2002 is excessive and exorbitant. It is further stated that the learned trial Judge ought to have fixed the earnings of the deceased at Rs.15,000/- per annum as no proof is produced by the claimants to prove the earnings of the deceased through cultivation.

4. Since these are the contentions raised by the appellant-Insurance Company in the appeal grounds, it can be construed that it has no grievance as to the finding given by the Court below as regard to the negligence attributed to the driver of the crime lorry bearing No.AP-22/U-3000 in causing the accident, so also as to the subsistence of the insurance in respect of the crime lorry as on the date of the accident.

5. Since the dispute is raised by the Insurance Company only as to the quantum of compensation, the points which are required to be answered by this Court are,

1. Whether the compensation awarded to the claimants in respect of the death of the deceased is fair and reasonable?

2. Whether the trial Judge has erred in assessing the income of the deceased at Rs.4,500/- per month instead of Rs.15,000/- per annum, as mentioned in Schedule-II of Motor Vehicles Act, by considering him as a non-earning member?

6. In order to prove the income of the deceased, the claimants have examined P.W.1. P.W.1-Ch.Swaroop, who is the wife of the deceased, deposed that her husband was doing real estate business besides cultivating their land situated at Ameenpur village and was earning Rs.10,000/- per month. Though the claimants have pleaded that the deceased was getting income of Rs.10,000/- per month through cultivation and he was doing real estate business, they did not produce any document in proof of the land owned and possessed by the deceased, but they produced Exs.A7 and A8, which would show that the deceased was owning a car bearing No.AP 23F 2964 and a tractor bearing No.AP23F 6959. The Court below taking into consideration of Exs.A7 and A8 thought that assessing of income of the deceased at Rs.150/- per day is fair and reasonable. Thus, the Court below estimated the loss of income of the deceased at Rs.3,000/- per month on duly deducting 1/3rd of his income towards his personal expenses. As the deceased was 40 years old by the date of his death, as noticed from the contents of Exs.A3 and A4 inquest and postmortem report respectively, the Court below applied multiplier of '12' and assessed the loss of dependency at Rs.4,32,000/-. As the 1st claimant lost her life companion, the lower Court awarded Rs.15,000/- towards loss of consortium. Since the claimants lost the love and affection of the deceased, the trial Court awarded Rs.15,000/- under the head of loss of love and affection. It appears that no amount is awarded to the claimants under the head of funeral expenditure. If some substantial amount is awarded under the said head, the amount which they are entitled to get exceeds

Rs.4,62,000/-. In view of the above, I find no merit in the contention of the appellant-Insurance Company that the amount awarded towards compensation claimed is excessive. Viewed from any angle, I find no substantial force in the contention raised by the appellant-Insurance Company in this regard. I intend to make it clear that the observation made above, while addressing the issue raised by the appellant-Insurance Company, cannot be taken as advantage by the opponent of the appellant-Insurance Company as the intention of this Court is not to drive the parties to litigate further.

7. Upon close scrutiny of the evidence on record, this Court finds that no satisfactory grounds are made out by the appellant to agree with its contention that compensation amount awarded to the claimants in respect of death of the deceased is excessive and exorbitant. The appellant-insurance company has failed to explain as to how the Court below is unjustified in passing of the award in favour of the claimants by partly allowing claim made for compensation. The well considered award passed by the Court below granting compensation of Rs.4,62,000/- to the claimants in respect of the death of the deceased in the accident occurred on 06.08.2004 cannot be meddled with for the reasons recorded above. Therefore, the appeal filed by the appellant-insurance company deserved to be dismissed and is hereby dismissed accordingly.

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

25th September, 2018
ssp

J. UMA DEVI, J