

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL MISCELLANEOUS APPEAL No.2621 OF 2004

JUDGMENT:

This Appeal was preferred by the respondents 3 and 4 in O.P.No.882 of 1998 on the file of the III Motor Accidents Claims Tribunal, Warangal. The petition was originally filed by the petitioner, who was injured in the accident and he died during the pendency of the O.P., and the petitioners 2 to 6 were brought on record. They are respondents 2 to 6 herein.

The claimant filed the petition seeking compensation of Rs.4,00,000/- alleging that on 27.09.1998 at about 3.00 p.m., at Muripirala outskirts on Khammam-Warangal road, when Oruganti Yakaiah along with others were travelling in a Jeep bearing No.AP 7 H 5402 from Thorrur to Muripirala Village and when the said Jeep reached Muripirala x-road, the driver of the jeep drove in a rash and negligent manner, as a result of which, the Jeep turned turtle. In the said accident, he received serious injuries and later succumbed to injuries. He was aged about 26 years and was working as Electrician and Agriculturist along with caste profession as Dhobi and was earning an income of Rs.3,000/- per month.

The fourth respondent filed a counter affidavit denying the petition averments. It is stated that after the death of the injured, nothing survives in the claim petition and the legal heirs are not entitled for any amount. Since the accident took place on 27.09.1998 and the injured died on 23.11.1999 after one year two months, the claim petition is not maintainable. There was no nexus between the injuries sustained by him and subsequent death and he may have died due to some other reason.

On the basis of the above pleadings, the Tribunal framed the following issues:-

- “1. Whether the accident occurred on 27.09.1998 due to rash and negligent driving of Jeep bearing No. AP 7 H 5402 driven by its driver?
2. Whether the petitioner is entitled to compensation? If so, to what amount and from whom? And
3. To what relief?”

The second respondent/second petitioner was examined as P.W.1 and two Doctors were examined as P.Ws.2 and 3 on behalf of the petitioners before the Tribunal. She also marked Exs.A.1 to A.6. None was examined on behalf of the respondents, but Ex.B.1, Insurance Police, was marked. The certified copy of FIR in Crime No.174, dated 28.09.1998, was marked as Ex.C.1.

On the basis of oral and documentary evidence, the Tribunal came to the conclusion that the accident occurred on 27.09.1998 was due to rash and negligent driving of the driver of the Jeep bearing No.AP 7 H 5402, driven by its driver.

P.W.1 deposed that the deceased was treated as inpatient for forty five days in M.G.M.Hospital, Warangal and P.W.2 treated him. Ex.A.1, history case sheet, was marked through P.W.2 and it shows that the deceased was admitted on 27.09.1998 and discharged on 23.10.1998 at his request. At the time of discharge, the petitioner was not fully cured. The cause of death in the Post Mortem examination was shown as ‘complications of cervical spine injury’. P.W.3, the Doctor, who conducted Autopsy, categorically deposed that there was scope for death of the injured having sustained grievous injury on cervical spine. When the Tribunal awarded an amount of Rs.4,00,000/- though it came to the conclusion that the total compensation that can be granted is Rs.5,26,500/-, by its order, dated 17.11.2003, the present Appeal was filed.

The only point raised by the learned counsel for the appellants is that there is no connection to the death of the injured for the injuries sustained by him in the motor accident as the death occurred more than one year from the date of the accident. But, P.Ws.2 and 3, who are the Doctors connected with the treatment of the deceased and the Post Mortem Examination, gave a categorical opinion that the injuries sustained by the deceased may result in his death. The Tribunal took into consideration the Medico-legal Manual by Dr K.S.Narayana Reddy and Medical Jurisprudence and Toxicology, and categorically held that the deceased died due to remote cause of spinal cord injury and the petitioners are entitled for claiming compensation for his death. The assessment of compensation was not disputed by the learned counsel for the appellants and since only Rs.4,00,000/- was awarded as against entitlement of Rs.5,26,5000/-, the quantum of compensation cannot be found fault. In view of the evidence supporting the case of the claimants that the cause of death of the deceased was due to the injuries sustained by the deceased in the accident, this Court sees no ground to interfere with the Order passed by the Tribunal.

The Civil Miscellaneous Appeal is accordingly dismissed by confirming the Order, dated 17.11.2003, passed in O.P.No.882 of 1998, by the III Motor Accidents Claims Tribunal, Warangal. Consequently, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

10.04.2018
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