

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2867 of 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-Insurance Company aggrieved by the order dated 15.07.2005 in O.P.No.829 of 2004 on the file of the Motor Accident Claims Tribunal-cum-I Additional District Judge, Karimnagar (for short 'the Tribunal').

2. Heard the learned counsel for the appellant-Insurance Company and the learned counsel for the respondents-claimants and perused the record. The appeal against respondent Nos.2, 3 and 6 was dismissed for default on 13.04.2016.

3. Learned counsel for the appellant-Insurance Company would contend that though there is a contributory negligence on the part of the driver of the jeep bearing No.MZQ 1033, the Tribunal fastened the liability against the driver of the lorry bearing No.AP 36T 6667 and insurer, which is erroneous. Further, the Tribunal granted excess rate of interest as well as compensation and ultimately prayed to reduce the same and fasten the liability on two vehicles.

4. On the other hand, learned counsel for the respondents-claimants would contend that the Tribunal took all the facts and circumstances into consideration and granted Rs.8,36,000/- with interest @ 9% per annum, which is just and

reasonable. No interference is warranted and ultimately prayed to dismiss the appeal.

5. As seen from the material available on record, the entire criminal case record as well as the evidence of P.W.1 and P.W.3-eye witness is against the driver of the offending lorry bearing No.AP 36T 6667. Though the appellant-insurer contended that there was contributory rashness and negligence on the part of the driver of the jeep bearing No.MZQ-1033, no eye witness is examined to substantiate the same. R.W.1 is an employee of insurance company and he is not a direct witness to the occurrence of accident. Therefore, no value can be assigned to his evidence. The Tribunal while dealing with the rashness and negligence on the part of the driver of the offending vehicle assigned valid reasons. There is nothing to take a different view.

6. As far as compensation is concerned, the deceased was a Police Constable and was earning Rs.6,000/- per month. The Tribunal has taken the age of the deceased as 26 years, applied multiplier '17' and granted compensation of Rs.8,16,000/- towards loss of dependency and also granted Rs.20,000/- on other heads. Hence, it cannot be held that the assessment and grant of compensation, is excessive.

7. As regards rate of interest, it is apt to refer to the decision of the Apex Court in *Dharampal Vs. State Road Transport Corporation*¹, wherein, the Apex Court awarded interest @ 7.5% per annum on the amount awarded as

¹ MANU SC 7680 2008

compensation. In the instant case, the Tribunal granted interest @ 9% per annum, which is excessive.

8. Hence, the quantum of compensation of Rs.8,36,000/- which was awarded by the Tribunal in favour of the respondents-claimants is confirmed, but the rate of interest awarded thereon is reduced from 9% per annum to 7.5% per annum. The other terms of the impugned order remain unaltered.

9. Accordingly, the appeal is partly allowed. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

Date: 24.07.2018
ssp

Dr. SHAMEEM AKTHER, J

