

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.499 of 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988, by the appellant/United India Insurance Company Limited aggrieved by the order dated 20.09.2004 in O.P.No.278 of 1999 on the file of the Motor Accident Claims Tribunal-cum-I Additional District Judge, Prakasam at Ongole.

2. Heard the learned Standing Counsel for appellant-Insurance Company and perused the record. In spite of service of notice, there is no representation for the respondents-claimants. This appeal is of the year 2005. Hence, it can be disposed of on merits.

3. The learned Standing Counsel for the appellant-Insurance Company would contend that the deceased was travelling on footboard of offending bus bearing No. AP 27 T 2754. Due to his fault, he sustained injuries and succumbed to the same. Hence, the Tribunal ought not to have granted any compensation against the appellant-insurer and ultimately prayed to allow the appeal by setting aside the impugned order.

4. As seen from the entire material placed on record, though the insurer contended that the deceased was

travelling by standing on the foot board of the offending vehicle bearing No.AP 27 T 2754, no evidence was produced to substantiate the same. There is evidence of P.W.1 and documents marked as Ex.A1 certified copy of FIR, Ex.A2 certified copy of inquest report, Ex.A3 certified copy of post mortem certificate, Ex.A4 certified copy of accident report and Ex.A5 certified copy of charge sheet, support the case of claimants. The Tribunal had analysed the entire oral and documentary evidence and held that due to rash and negligent driving of the driver of the bus bearing No.AP 27 T 2754, the deceased died. The finding of the Tribunal is based on oral and documentary evidence. There is nothing to take a different view.

5. As far as calculation of compensation is concerned, the Tribunal had decided just and reasonable compensation. There are no circumstances to interfere with the compensation. As regards rate of interest, it is apt to refer to the decision of the Apex Court in Dharampal Vs. State Road Transport Corporation¹, wherein, the Apex Court awarded interest at the rate of 7.5% per annum on the amount awarded as compensation. There are number of other citations, wherein, interest was awarded at the rate of 7.5% per annum on the amount awarded as compensation. In view of the same, awarding interest at the rate of 9%

¹ MANU SC 7680 2008

per annum on the amount awarded as compensation by the Tribunal is held excessive.

6. Accordingly, this appeal is allowed in part modifying the order, dated 20.09.2004 in O.P.No.278 of 1999, passed by the Tribunal, only to the extent of reducing the interest at the rate of 7.5% per annum from 9% per annum on the amount granted as compensation (Rs.1,72,000/-) from the date of petition till the date of deposit. The other terms of the order under challenge remain unaltered. On deposit of the compensation, the respondents-claimants are permitted to withdraw the entire amount with interest.

Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

21st June, 2018
ssp

Dr. SHAMEEM AKTHER, J