

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3300 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/the United India Insurance Company Limited, aggrieved by the grant of compensation of Rs.1,70,000/- (along with Rs.7,500/- towards funeral expenses and loss of estate) as against a claim of Rs.2,50,000/- to the respondents 1 and 2/claimants, by the learned Chairman, Motor Accident Claims Tribunal – cum – II Additional District Judge at Mahabubnagar (for short, “the Tribunal”) *vide* order, dated 03.08.2005, passed in O.P.No.102 of 2001.

2. Heard the submissions of the learned Standing Counsel appearing for the United India Insurance Company Limited representing the appellant and the learned counsel for the respondents 1 and 2/claimants, and perused the material on record.

3. Learned Standing Counsel for the United India Insurance Company Limited representing the appellant would contend that the accident occurred due to the rash and negligent driving of the driver of the jeep bearing No.AP-22-D-5998, but the Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the lorry bearing No.APH 5757 and tagged the entire liability against the insurer of the said lorry; that the Tribunal had granted excessive compensation and ultimately, prayed to set aside the impugned order and allow the appeal as prayed for.

4. On the other hand, learned counsel for the respondents 1 and 2/claimants would contend that the Tribunal is justified in granting a compensation of Rs.1,70,000/- (along with Rs.7,500/- towards funeral expenses and loss of estate) and interest thereon; that the accident occurred due to the rash and negligent driving of the driver of the lorry bearing No.APH 5757 resulting in the death of the deceased M.Ramesh; that the Tribunal had taken all the factors into consideration and granted just and reasonable compensation; that there are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the following points come up for determination:

“1. Whether the deceased M.Ramesh died due to the rash and negligent driving of the driver of the lorry bearing No.APH 5757? and

2. Whether the compensation of Rs.1,70,000/- (along with Rs.7,500/- towards funeral expenses and loss of estate) awarded by the Tribunal with interest at the rate of 7.5% per annum from the date of petition till the date of realisation is liable to be set aside?”

6. **POINT No.1:-**

As seen from the oral and documentary evidence on record, it is evident that there is negligence and rashness on the part of the driver of the lorry bearing No.APH 5757 resulting in the death of the deceased M.Ramesh. The appellant is the insurer of the said lorry. There is valid insurance on the date of the accident. The Tribunal, having analysed the entire oral and documentary evidence, held that there is rashness and negligence on the part of the driver of the said lorry. This finding is based on the evidence

on record. There is nothing to take a different view. Hence, the finding of the Tribunal that the accident occurred due to the rash and negligent driving of the driver of the lorry bearing No.APH 5757 resulting in the death of the deceased cannot be faulted.

7. **POINT No.2:-** In the evidence, it is stated that the deceased M.Ramesh was a Carpenter and an Agriculturist earning Rs.5,000/- per month. As the claimants have not filed any certificate with regard to the age of the deceased, who was their son, the Tribunal rightly took the multiplier "18". Then, the total compensation was assessed as Rs.2,55,000/-. Out of the said amount, 1/3rd was deducted towards personal expenses of the deceased and the compensation came to Rs.1,70,000/-. The Tribunal granted the compensation of Rs.1,70,000/- with proportionate costs and interest at the rate of 7.5% per annum from the date of petition till the date of realisation. Apart from that, the Tribunal awarded an amount of Rs.5,000/- towards funeral expenses and Rs.2,500/- towards loss of estate. Granting the abovementioned amounts without proper calculations cannot be held excessive. In the circumstances of the case, the compensation granted by the Tribunal in favour of the respondents 1 and 2/claimants is just and reasonable. The assessment and finding of the Tribunal is based on evidence. Therefore, the same is liable to be confirmed. There are no circumstances to take a different view. The appeal is devoid of merit and is liable to be dismissed.

8. In the result, the appeal is dismissed. There shall be no order as to costs.

9. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 24.07.2018
AMD



THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



M.A.C.M.A.No.3300 OF 2005

Date: 24.07.2018

AMD