

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

C.M.A.NO.4226 OF 2004

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellants-claimants in O.P. No.133 of 1999 on the file of the III Additional Chief Judge, City Civil Court, Hyderabad, aggrieved by the order dated 17.05.2000, whereby the Court below granted compensation of Rs.3,44,480/- with proportionate costs and interest at the rate of 12% per annum from the date of petition till the date of realisation, in favour of the appellants-petitioners herein against the first respondent and the second respondent-Insurance Company, for the death of the deceased in a motor accident, which occurred on 25.07.1998 due to rash and negligent act of driver of the offending vehicle, i.e., lorry bearing No.AP-9-U-2061.

2. Counsel for the appellants submitted that he has no instructions in this case. Heard the counsel for the second respondent-Insurance Company.

3. The parties hereinafter are referred to as arrayed before the Court below.

4. This appeal is filed contending that the claimants claimed a compensation of Rs.4,00,000/- for the death of the deceased, which occurred in the road accident. Grant of compensation of Rs.3,44,420/- is meagre. The Court below had erroneously come to the above findings. The claimants are entitled for compensation of Rs.4,00,000/- as claimed.

5. On the other hand, learned counsel for the respondent-insurer submitted that the compensation was awarded basing on the evidence available on record, applying suitable multiplier and there is no infirmity to vary the order impugned and ultimately, prayed to dismiss the same.

6. There is no much dispute with regard to the rash and negligent driving of the driver of lorry bearing No.AP-9-U-2061 and causing the death of the deceased in motor accident, which occurred on 25.07.1998. The accident and the death relate to the year 1998. Therefore, the earning capacity in those days is required to be taken into consideration to determine the compensation to the dependants of the deceased. The deceased was unmarried as on the date of the accident. The Court below took the age of the mother of deceased as 40 years and adopted multiplier 12.79 and his income at Rs.3,000/- per month and granted Rs.2,30,220/- towards loss of dependency. An amount of Rs.99,200/- was granted towards medical expenses and Rs.15,000/- towards loss of estate. In all, the Court below granted compensation of Rs.3,44,420/- with 12% interest per annum based on the evidence on record. Since mother's age is taken to award compensation, rate of interest @ 12% per annum is justified. There is no infirmity in the calculation of the amount of compensation and there are no circumstances to interfere with the order of the Court below.

7. Therefore, the order dated 17.05.2000 in O.P.No.133 of 1999 on the file of the III Additional Chief Judge, City Civil Court, Hyderabad, is confirmed and the appeal is dismissed. There shall

be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(DR. SHAMEEM AKTHER, J)

11th June 2018
RRB

