

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1427 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/the National Insurance Company Limited, aggrieved by the grant of compensation of Rs.4,62,072/- as against a claim of Rs.8,00,000/- to the respondents 1 to 6/claimants, by the learned Special Judge for the trial of offences under the SCs & the STs (PoA) Act – cum – the VI Additional Metropolitan Sessions Judge, Secunderabad – cum – the Additional Chairman, Motor Accident Claims Tribunal – cum – the XX Additional Chief Judge, Secunderabad (for short, “the Tribunal”) *vide* order, dated 20.07.2004, passed in O.P.No.138 of 2002.

2. Heard the submissions of the learned Standing Counsel appearing for the National Insurance Company Limited representing the appellant and the learned counsel for the respondents 1 to 6/claimants, and perused the material on record.

3. Learned Standing Counsel for the National Insurance Company Limited representing the appellant would contend that there was no rashness or negligence on the part of the driver of D.C.M. Van bearing No.AP 5T 6060; that the Tribunal had granted excessive compensation without taking into account the correct multiplier and also the correct income of the deceased Jupally Anjaneyulu, 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 to 6/claimants would contend 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 Jupally Anjaneyulu died due to the rash and negligent driving of the driver of D.C.M. Van bearing No.AP 5T 6060? and

2. Whether the compensation of Rs.4,62,072/- awarded by the Tribunal with interest at the rate of 6% per annum from the date of original petition till the date of deposit of the said amount is liable to be set aside?”

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

Admittedly, no evidence was adduced on behalf of the owner of the vehicle as well as the appellant/Insurance Company. To substantiate the claim on behalf of the claimants, P.Ws.1 and 2 were examined and the following exhibits were marked:

Ex.A-1 – certified copy of F.I.R.

Ex.A-2 – certified copy of Charge Sheet.

Ex.A-3 – certified copy of Panchanama.

Ex.A-4 – certified copy of Inquest Report.

Ex.A-5 – certified copy of Post Mortem Report.

Ex.A-6 – certified copy of M.V.I. Report.

Ex.A-7 – original Driving License.

Ex.A-8 – xerox copy of R.C. of Tractor bearing No.A.P.23-T-1178.

Ex.A-9 – xerox copy of R.C. of Tractor bearing No. A.P.23T-1179.

Ex.A-10 – xerox copy of Form No.29 Transfer of Ownership of Tractor Tractor Nos.AP.23T-1178 & AP 23T-1179.

Ex.A-11 – xerox copy of Insurance cover note of Tractor Tractor bearing Nos.AP 23-T-1178 & AP 23T-1179 and

Ex.A-12 – xerox copy of Insurance Police, AP-ST-6060.

P.W.1 is the wife of the deceased. She has not witnessed the occurrence of the incident. P.W.2 deposed about the rashness and negligence on the part of the driver of the offending vehicle and occurrence of the accident resulting in the death of the deceased on 23.01.2002. Exs.A-1 to A-5 corroborate with the evidence of P.W.2. The Tribunal, basing on the evidence of P.W.2 and the documents – Exs.A-1 to A-5, held that there was rashness and negligence on the part of the driver of the D.C.M. Van bearing No.AP 5T 6060 resulting in the death of the deceased. 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 said offending vehicle resulting in the death of the deceased cannot be faulted.

7. **POINT No.2:-** P.W.1 is the wife of the deceased. She spoke about the occupation and the death of the deceased in the aforesaid motor accident. The Tribunal, taking the age and income of the deceased and after deducting 1/3rd amount towards his personal expenses, granted compensation for loss of dependency and on other conventional heads and ultimately, awarded the compensation of Rs.4,62,072/- as against a claim of Rs.8,00,000/- with interest at the rate of 6% per annum from the date of original

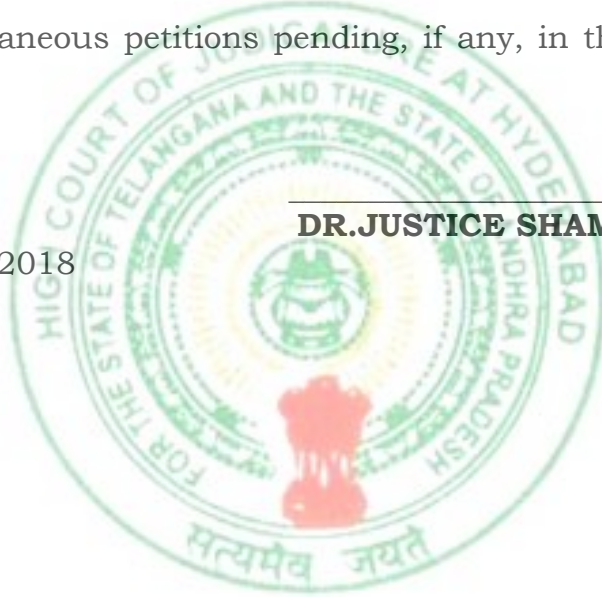
petition till the date of deposit of the said amounts to the credit of the original petition. The compensation granted by the Tribunal in favour of the respondents 1 to 6/claimants is just and reasonable. The assessment and finding of the Tribunal is based on evidence. Therefore, the same is liable to 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.

Date : 13.07.2018
AMD

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