THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.4668 OF 2008

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 24.06.2008 in M.A.T.O.P.No.1263 of 2004 on the file of the Motor Accident Claims Tribunal-cum-III Additional District Judge (Fast Track Court-II), Khammam (for short, 'the Tribunal').

2. Heard the learned counsel for the appellant-Insurance Company, the learned counsel for the respondents-claimants and perused the record.

3. Learned counsel for the appellant-Insurance Company would contend that the Tribunal had taken the multiplier '15' instead of '14'. Further, the auto in which the deceased was travelled was overcrowded. In view of that there is violation of policy conditions and ultimately prayed to set aside the order under challenge against the Insurance Company.

4. Learned counsel for the respondents-claimants would contend that the Tribunal had rightly awarded the compensation. There are no circumstances to interfere with the same and prayed to dismiss the appeal.

5. Basing on the above submissions, the points that arise for determination are:

1. Whether there is any violation of policy conditions?
2. Whether the compensation granted by the Tribunal is excessive and liable to be set aside as prayed for?

6. There is no dispute with regard to the death of the deceased-Jaya Raju in a motor accident caused by auto bearing No.AP 20 V 6591 being driven by its driver in a rash and negligent manner on 14.08.2004. The only dispute is with regard to quantum of compensation and violation of policy conditions.

7. To substantiate that there was violation of terms and conditions of the policy, the Insurance Company got marked Ex.B1-policy. The appellant-insurance company did not choose to examine any witnesses on their behalf to show that the auto was overcrowded. Further, as per the charge sheet, the driver of the auto was not prosecuted for not possessing valid driving licence. In view of the same, it cannot be held that there was violation of conditions of policy.

8. The Insurance Company has not disputed that the deceased was an agricultural cooli. Hence, the Tribunal has rightly taken the monthly income of the deceased as Rs.1,800/-, deducted 1/3rd towards his personal expenses, applied multiplier '15' and assessed the compensation payable towards loss of dependency at Rs.2,16,000/-. The Tribunal also granted Rs.15,000/- towards loss of consortium, Rs.5,000/- towards loss of love and affection and Rs.2,000/- towards medical bills. In all, the Tribunal granted Rs.2,38,000/- towards compensation. Therefore, in view of the facts and circumstances of the case, the compensation awarded by the Tribunal cannot be held to be excessive.

9. In the result, the appeal is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed. No costs.

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Dr. SHAMEEM AKTHER, J

Date: 20.07.2018

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