

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.1993 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') aggrieved by the order dated 15.04.2004 passed in O.P. No.797 of 2003 on the file of the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Karimnagar (for short, 'the Tribunal'), whereby the Tribunal granted Rs.50,000/- with interest at 9% per annum as compensation in favour of the appellants, as against the claim of Rs.1,50,000/- for the death of Bhattu Mallavva in a motor accident occurred on 04.11.2003.

2. Heard the learned counsel for the appellants-claimants and the learned Standing Counsel for the 3rd respondent-insurer, apart from perusing the material on record. Though notices were served on respondent Nos.1 and 2- driver and owner of the offending vehicle, none appeared on their behalf.

3. Learned counsel for the appellants-claimants would contend that the Tribunal had granted only Rs.50,000/- as compensation in favour of the appellants-claimants under no fault liability; the Tribunal failed to consider the earnings of the deceased as Rs.2,000/- per month; and ultimately, prayed to enhance the compensation.

4. On the other hand, the learned Standing Counsel for the 3rd respondent-insurer would contend that the Tribunal had rightly assessed the compensation; there are no circumstances to enhance the compensation; and ultimately, prayed to dismiss the appeal.

5. There is no dispute with regard to the death of the deceased-Bhattu Mallavva in a motor accident occurred on 04.11.2003 due to the rash and negligent driving of the driver of the tractor bearing registration No.AP 15V 5669.

The short point that falls for determination is, whether the appellants-claimants are entitled for enhancement of compensation?

6. The contention of the appellants-claimants is that the deceased was earning Rs.2,000/- per month, they were dependents on the deceased and they claimed compensation of Rs.1,50,000/- for the death of the deceased in the subject accident occurred on 04.11.2003. To substantiate the contentions, the 1st appellant deposed as P.W.1 and examined P.W.2 and got marked Ex.A.1-attested copy of F.I.R., Ex.A.2-attested copy of inquest report and Ex.A.3-attested copy of post-mortem examination report. On behalf of the 3rd respondent-insurer, Ex.B.1-attested copy of insurance policy of the offending vehicle was marked. As per the oral and documentary evidence, the appellants-claimants are the husband and children of the deceased-Bhattu Mallavva. As per the material placed on record, the deceased was 40 years old at the time of accident. Under these circumstances, the appellants-claimants are entitled to the compensation as claimed, i.e., Rs.1,50,000/-. The Tribunal awarded interest at the rate of 9% per annum on the amount granted as compensation from the date of petition till date of deposit. As per the settled legal position, the appellants-claimants are entitled for interest at the rate of 7.5% per annum only on the enhanced amount of compensation.

8. In the result, this appeal is allowed and the order dated 15.04.2003 passed by the Tribunal in O.P. No.797 of 2003 is modified and the amount of compensation of Rs.50,000/- granted by the Tribunal is enhanced to Rs.1,50,000/-. The appellants-claimants are entitled to interest at 7.5% per annum on the enhanced amount of Rs.1,00,000/- from the date of petition till date of deposit. The appellants-claimants are entitled to share the enhanced compensation amount equally and they are permitted to withdraw their entire amounts.

9. Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

Date: 03.07.2018
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Dr. SHAMEEM AKTHER, J

