

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3013 OF 2005

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 29.07.2003 in O.P.No.91 of 2000 on the file of the Motor Accident Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad (for short 'the Tribunal').

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

3. Though the matter is posted 'for orders', there is no representation for the 1st respondent-claimant and 2nd respondent-owner. This appeal pertains to the year 2005. Hence, it can be disposed of on merits basing on the material available on record.

4. Learned counsel for the appellant-Insurance Company would contend that there was a triple riding on the scooter bearing No.AP 23C 2843 at the time of accident. There was no negligence on the part of the driver of lorry bearing No.AIL 3445. The Tribunal, having recorded a finding of collision between both the vehicles, did not direct the owner and insurer of the said scooter to pay the compensation along with the appellant-insurance company and owner of the offending lorry. Further, the Tribunal had granted excess compensation under different heads with interest @ 9% per annum and ultimately prayed to set aside the order passed against the appellant-insurance company.

5. As per the pleadings of the claim petition, there was a triple riding on the scooter (two wheeler) bearing No.AP23 C 2843, at the time of accident on 03.01.2000. Learned counsel for the appellant-insurance company would contend that there is a contributory negligence on the part of the rider of the scooter. But it did not adduce any evidence to substantiate the same. The entire criminal case is against the driver of lorry bearing No.AIL 3445. Ex.A1-FIR and Ex.A2-charge sheet are against the driver of the said lorry. There is also evidence of P.Ws.1 and 2 with regard to the injuries and disability suffered by the claimant. Further, there is specific evidence of P.W.1 that there is rash and negligent driving on the part of the driver of the lorry bearing No.AIL 3445. To substantiate the contentions, the appellant did not adduce any evidence. Without there being any oral or documentary evidence from the side of the appellant-insurance company, it is difficult to uphold its contentions with regard to contributory negligence. In view of the facts and circumstances of the case, the Tribunal is justified in rendering a finding that the driver of the offending lorry was responsible in causing the subject accident and injuries to the claimant.

6. Insofar as determination of compensation of Rs.1,79,000/- is concerned, the Tribunal had taken the injuries and disability suffered by the claimant into consideration and awarded the said compensation. So, it cannot be said that it is excessive.

7. As regards rate of interest, it is apt to refer to the decision of the Apex Court in Dharampal Vs. State Road Transport

Corporation¹, wherein, the Apex Court awarded interest @ 7.5% per annum on the amount awarded as compensation. In view of the same, awarding interest @ 9% per annum on the amount awarded as compensation by the Tribunal is excessive.

8. Hence, the quantum of compensation of Rs.1,79,000/- which was awarded by the Tribunal in favour of the respondent-claimant is confirmed, but the rate of interest awarded thereon is reduced from 9% per annum to 7.5% per annum. The other terms of the impugned order remain unaltered.

9. Accordingly, the appeal is partly allowed. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

Date: 21.08.2018
ssp

Dr. SHAMEEM AKTHER, J

¹ MANU SC 7680 2008