

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1684 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.50,000/- as against a claim of Rs.1,50,000/- by the XII Additional Chief Judge (FTC), City Civil Court, Hyderabad, vide order, dated 28.03.2005, passed in O.P.No.1686 of 2003, the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for appellant-claimant, the learned Standing Counsel for the New India Assurance Company Limited representing the 2nd respondent and perused the record.

3. The learned counsel for the appellant-claimant would contend that the mother of the deceased predeceased him. The claimant is the father of the deceased. The Court below granted a meagre compensation of Rs.50,000/- as against a claim of Rs.1,50,000/-, which is unjust and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that the Court below is justified in granting compensation of Rs.50,000/-. There are no circumstances to enhance the same and ultimately prayed to dismiss the appeal.

5. It is not in dispute that the deceased-Satprakash Yadav, 12 years old boy, died in a motor accident that occurred on 02.07.2003 due to rash and negligent driving of the driver of the DCM Van

bearing registration No.AIH-5400. The Court below recorded a specific finding to that effect. However, it granted a compensation of Rs.50,000/- under 'No fault liability', holding that there is no evidence on record to come to the conclusion that the deceased boy was earning Rs.1,500/- per month as deposed by P.W.1. Even if the notional income of the deceased is taken as Rs.18,000/- per annum and $\frac{1}{2}$ of it is deducted towards personal expenses and multiplier '15', as applicable to the age of the deceased, is applied and Rs.15,000/- is to be awarded towards loss of estate and funeral expenses, it would come to Rs.1,50,000/-. In view of the same, the compensation of Rs.1,50,000/- claimed by the appellant-claimant is quite just and reasonable.

6. Accordingly, this appeal is allowed, modifying the order, dated 28.03.2005, passed in O.P.No.1686 of 2003, by the Court below, enhancing the compensation payable to the appellant-claimant from Rs.50,000/- to Rs.1,50,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of application till realisation. The other terms of the Order under challenge remain unaltered. On deposit of the compensation, the appellant-claimant is permitted to withdraw the entire amount with interest.

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

Dr. SHAMEEM AKTHER, J

17th July, 2018
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