

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

MACMA.No.588 OF 2006

JUDGMENT:

The present appeal is preferred by respondent No.2 – M/s.United India Insurance Company Limited in MVOP.No.191 of 1997 on the file of Chairman, Motor Accidents Claims Tribunal – cum – Prl.District & Sessions Judge, Medak at Sangareddy, aggrieved by the order and decree, dated 09.09.2005, passed in the said O.P., whereby and whereunder, a sum of Rs.45,000/- was awarded as compensation to the respondents 1 to 6 herein payable by both respondents i.e. 7th respondent (driver of the offending vehicle) and appellant herein.

2. The appellant-M/s.United India Insurance Company Limited is respondent No.2, whereas respondent Nos.1 to 6 are the petitioners and respondent No.7-the driver of the tractor bearing No.AP 23T 2066 that involved in the accident, who is 1st respondent, in the O.P. before the Tribunal.

3. The fact-situation would reflect that, on 12.12.1996 at about 7 P.M. when the 1st respondent (deceased) herein was riding Hero Honda Motor Cycle AP 23/9963 and when it reached the limits of Chidrupa Village, one tractor bearing No.AP 23T 2066 came from opposite direction driven by its driver in a rash and negligent manner on wrong side and dashed the 1st respondent due to which he fell down and

sustained fractures to up and down jaw, forehead, right hand and right leg knee and injuries to right thumb, right side ribs and all over the body. Police, Sangareddy (rural) registered a case in Crime No.189/1996 for the offence punishable under Section 337 IPC against the driver of the said tractor that is owned by the 1st respondent, which he insured with the second respondent and the insurance was valid at the time of accident.

4. The 1st respondent set exparte and the 2nd respondent filed counter denying the averments of the petitioner, putting the petitioner to strict proof of the same and contending that the accident occurred due to rash and negligent riding of the motor cycle by the petitioner without there being any rashness or negligence on the part of the driver of the tractor, as such, the petitioner is not entitled for any compensation from the 2nd respondent; that the driver of the tractor was not possessing valid and subsisting driving licence at the time of accident; that the claim is excessive, the petitioner is not entitled for the same and finally sought for dismissal of the petitioner.

5. During pendency of the petitioner, on 18.07.2004 injured-1st petitioner (1st respondent herein) died and as per the orders dated 17.09.2004 in IA.No.1639/2004, his legal heirs were impleaded as petitioner Nos.2 to 6. During enquiry, on behalf of the petitioners, PW1-wife of the

deceased (1st respondent herein) was examined and Exs.A1 to A6 were marked. On behalf of respondents Ex.B1 was marked.

6. The Tribunal, on appraisal of evidence on record, and relying on the oral evidence of PW1 and 2 and documentary evidence Exs.A1-Copy of FIR and A2-Charge Sheet, came to the conclusion that due to rash and negligent driving of the Tractor belonging to the 1st respondent, the accident occurred and tendered the finding on Issue No.1 in favour of the petitioners.

7. On issue No.2, while deciding the liability of respondents, the Court below stating that since the crime vehicle owned by 1st respondent validly insured with 2nd respondent as evidenced under Ex.B1, fixed liability on both the respondents. As far as quantum of compensation is concerned the Court below by relying on Ex.A3-Injury Certificate, granted an amount of Rs.5,000/- towards pain and suffering and Rs.30,000/- towards grievous injuries and Rs.10,000/- for medical expenses. Thus, in total a sum of Rs.45,000/- was granted by the Tribunal towards compensation to the respondents 2 to 6 (legal heirs of the deceased) payable by both the respondents jointly and severally granting interest @ 7.5% p.a.

8. Challenging the aforesaid award and Judgment, the 2nd respondent/appellant preferred the present appeal.

9. Learned counsel for the appellant/2nd respondent submits that the Tribunal granted excess compensation of Rs.45,000/- without any basis and without any evidence to that effect.

10. Initially the 1st petitioner/1st respondent filed OP for the injuries sustained by him in the accident. During pendency of the OP, he died, as such, his legal representatives/petitioners 2 to 6 were came on record to pursue the OP. The Tribunal granted Rs.30,000/- towards grievous injuries basing on Ex.A3-Injury Certificate issued by the Civil Assistant Surgeon. The Tribunal relied on the said document though it is not proved by the petitioners by examining its issuing authority, as the same was issued basing on the requisition made by the Sub-Inspector, Sangareddy (Rural), who also filed charge sheet in this case. Besides the said amount the Tribunal granted Rs.5,000/- towards pain and suffering and Rs.10,000/- towards medical expenses, which cannot be denied as the petitioner sustained grievous injuries.

11. In view of the above, it cannot be said that the Tribunal has granted compensation without any evidence. More so, the summary Court recorded the evidence and basing on the oral and documentary evidence granted Rs.45,000/-. As such, I

do not see any reason to disturb the award of compensation granted by the Tribunal. It is not a fit case for interference by this Court.

12. Accordingly, the CMA is dismissed. No order as to costs.

As a sequel, miscellaneous applications, if any, pending in this appeal shall stand closed.

A.RAJASHEKER REDDY, J

22.02.2018
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