THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.1971 of 2003

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant-United India Insurance Company Limited, aggrieved by the grant of compensation of Rs.4,17,000/- to the respondents/claimants as against a claim of Rs.2,35,000/-, by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Vizianagaram ('the Tribunal', for brevity) vide order, dated 29.10.2001, passed in M.O.P.No.265 of 1996.

2. Heard the submissions of the learned Standing Counsel for the United India Insurance Company Limited representing the appellant, the learned counsel for the respondents/claimants and perused the record.

3. The learned Standing Counsel for the United India Insurance Company Limited representing the appellant would submit that the compensation granted by the Tribunal is excessive. The Tribunal ought not to have taken the monthly income of the deceased as Rs.5,000/-. The respondents/claimants have not established their relationship with the deceased-Manyapuri Bhaskararao. Therefore, the respondents/claimants are not entitled for any compensation on account of the death of the deceased and ultimately prayed to allow the appeal as prayed for.

4. On the other hand, the learned counsel for the respondents/claimants would contend that the Tribunal had taken all the factors into consideration and granted just and reasonable

compensation. There is evidence to prove the relationship between the respondents/claimants and the deceased and no rebuttal evidence was adduced by the appellant/insurance company to disprove the same. The findings of the Tribunal are based on evidence on record and ultimately prayed to dismiss the appeal.

5. As per the evidence placed on record, the deceased-Manyapuri Bhaskararao, an RMP doctor aged 38 years, died in a motor accident that occurred on 22.05.1996 due to the rash and negligent driving of the driver of the lorry bearing registration No.ABV-959. There is ample oral and documentary evidence to substantiate the same. The findings of the Tribunal on this aspect are based on evidence on record. So, the only question that arises for determination in this appeal is whether the respondents/claimants are entitled for award of compensation of Rs.4,17,000/- with 9% interest per annum from the date of petition till realization.

6. The appellant/insurance company disputed the relationship between the respondents/claimants and the deceased, but did not adduce any evidence to disprove the relationship between the respondents/claimants and the deceased. Further, the appellant/insurance company did not agitate the same before the Tribunal. Originally, two Original Petitions were filed claiming compensation on account of the death of the deceased. Both the Original Petitions were clubbed. Thereafter, the parties have filed a joint memo in both the Original Petitions and agreed to receive the compensation in terms of the Joint Memo and the Tribunal apportioned the compensation payable on account of the death of the deceased in terms of the Joint Memo. The petitioners 1 and 2 in

O.P.No.265 of 1996 received Rs.1,39,000/- each and the respondents 4 and 5 in O.P.No.265 of 1996 received Rs.69,500/- each. The petitioner in O.P.No.464 of 2000 received Rs.1,39,000/-. When the parties have compromised the matter and when the appellant/insurance company did not agitate before the Tribunal with regard to the relationship between the respondents/claimants and the deceased, it is not open for the appellant/insurance company to contend before this Court that the respondents/claimants are not related to the deceased and are not entitled for any compensation.

7. As far as award of compensation of Rs.4,17,000/- with 9% interest per annum by the Tribunal is concerned, there is also evidence on record that the deceased was an RMP doctor aged 38 years and was earning Rs.5,000/- per month. So, the Tribunal, by taking the income of the deceased as Rs.5,000/- and by applying suitable multiplier applicable to the age of the deceased (38 years), awarded just and reasonable amount as compensation. There is no infirmity in the Order under challenge and there are no circumstances to interfere with the same. The contentions raised on behalf of the appellant/insurance company do not merit consideration. The appeal is devoid of merit and is liable to be dismissed.

8. In the result, the appeal is dismissed.

Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

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Dr. SHAMEEM AKTHER, J

06th June, 2018
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