

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1450 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellants/the National Insurance Company Limited, aggrieved by the grant of compensation of Rs.3,00,000/- to the respondents 1 to 3/claimants, by the learned Chairman, Motor Accident Claims Tribunal – cum – III Additional District Judge, Warangal (for short, “the Tribunal”) *vide* order, dated 28.09.2004, passed in O.P.No.945 of 2001.

2. Heard the submissions of the learned Standing Counsel appearing for the National Insurance Company Limited representing the appellants. There is no representation on behalf of the respondents 1 to 3/claimants even though the matter is listed under the caption “For Orders”. The matter pertains to the year 2005. Hence, the appeal is disposed of basing on the material available on record.

3. Learned Standing Counsel for the National Insurance Company Limited representing the appellants would contend that the Tribunal had granted compensation of Rs.3,00,000/-, which is excessive; that there was no rashness or negligence on the part of the driver of the Auto bearing No.AP 36 U 9477 and ultimately, prayed to set aside the impugned order and allow the appeal as prayed for.

4. In view of the submissions made by the learned Standing Counsel for the appellants, the following points come up for determination:

“1. Whether the accident and death of the deceased Jannu Sambaiah occurred due to the rash and negligent driving of the driver of Auto bearing No.AP 36 U 9477? and

2. Whether the compensation of Rs.3,00,000/- awarded by the Tribunal with interest at the rate of 9% per annum from the date of filing of original petition till the date of deposit or realisation is liable to be set aside?”

5. **POINT No.1:-**

To substantiate the case of the respondents 1 to 3/claimants, they have examined P.Ws.1 and 2 and got marked the following exhibits:

Ex.A-1 – certified copy of F.I.R. in Crime No.160 of 2001, dated 06.07.2001 of Matwada Police Station.

Ex.A-2 – certified copy of Inquest Report.

Ex.A-3 – certified copy of Charge Sheet in Crime No.160/2001 of Matwada Police Station.

Ex.A-4 – certified copy of Post Mortem Report.

Ex.A-5 – certified copy of Remand Case Diary in Cr.No.160/2001 of Matwada Police Station.

Ex.A-6 – xerox copy of Insurance Police.

Ex.A-7 – xerox copy of Driving License.

Ex.A-8 – xerox copy of certificate of registration.

Ex.A-9 – xerox copy of transport permit.

Ex.A-10 – R.O.R. pass book.

Ex.A-11 – Pattadar pass book.

In the criminal case record as well as in the evidence of the witnesses, it has come that the subject accident occurred on

06.07.2001 due to the rash and negligent driving of the driver of the Auto bearing No.AP 36 U 9477 resulting in death of the deceased Jannu Sambaiah. This finding is based on the evidence on record. There is nothing to take a different view. Hence, the finding of the Tribunal that the accident and death occurred due to the rash and negligent driving of the driver of the offending vehicle cannot be faulted.

6. **POINT No.2:-** The Tribunal, considering the age and occupation of the deceased, took the monthly income of the deceased as Rs.3,000/-, deducted 1/3rd of the same towards personal expenses, applied the correct multiplier "15.5", awarded compensation on other conventional heads and ultimately, awarded a sum of Rs.3,87,500/-, which was restricted to Rs.3,00,000/- as claimed, with interest at the rate of 9% per annum from the date of filing the original petition till the date of deposit or realisation. Hence, the compensation granted by the Tribunal in favour of the respondents 1 to 3/claimants is just and reasonable. The assessment and finding of the Tribunal is based on evidence. There is no infirmity in the impugned order and therefore, the same is liable to be confirmed. There are no circumstances to take a different view. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed. There shall be no order as to costs.

8. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 13.07.2018
AMD



THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



M.A.C.M.A.No.1450 OF 2005

Date: 13.07.2018

AMD