THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2449 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 17.06.2005 in O.P.No.519 of 2003 on the file of the Motor Accident Claims Tribunal-cum-Principal District Judge, Medak at Sangareddy (for short 'the Tribunal').

2. Heard the learned Standing Counsel for appellant-Insurance Company, the learned counsel for respondent-claimant and perused the record.

3. The learned Standing Counsel for appellant-Insurance Company would contend that the auto bearing No.AP-23/T-5629 was shown as offending vehicle to claim compensation. The said auto did not cause any accident. The complaint was lodged to the police after 15 days of the death of the deceased, i.e., on 11.10.2002. Further, there is inconsistency in the medical record and the bills filed by the claimant. The Tribunal had not properly examined the medical bills. Further, without there being any involvement of auto bearing No.AP-23/T-5629, the insurer of the auto is made liable to pay the compensation along with the owner of the auto, which is unsustainable and ultimately, prayed to set aside the order passed by the Tribunal against the appellant-Insurance Company.

4. The learned counsel for respondent-claimant would contend that the deceased was 34 years old at the time of accident. The Tribunal had rightly considered the material available on record including the medical bills and awarded compensation towards loss of

earnings and other conventional heads. In all, the Tribunal granted compensation of Rs.4,90,000/- with interest @ 7.5% per annum, which is not excessive. There is no infirmity in the order under challenge. There are no circumstances to vary the order and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the points that arise for determination are as follows:-

1. Whether K.Narender Goud succumbed to the injuries caused due to the rash and negligent driving of the driver of auto bearing No.AP-23/T-5629?
2. Whether the Tribunal justified in granting the compensation of Rs.4,90,000/- with interest @ 7.5% per annum against the appellant-Insurance Company?

6. To substantiate the claim, on behalf of the claimant, P.Ws.1 and 2 were examined and Exs.A.1 to A.7 were marked. On behalf of the respondents, R.W.1 was examined and Ex.B1-insurance policy was marked.

7. P.W.1-wife of the deceased deposed about the occurrence of accident due to the involvement of auto and death of the deceased-K.Narender Goud in the subject accident. It is pertinent to note that there is evidence of R.W.1, who is said to be a co-traveller travelling in the auto at the time of occurrence of accident. His evidence is that on 28.09.2002 at about 5:00 p.m., when he along with the deceased was travelling in the auto, the driver of the said auto turned the auto in high speed, due to which, the deceased, who was sitting at the edge of the seat, fell down and sustained head injury. Further, he categorically deposed that the subject accident occurred due to the rash and negligent driving of the driver of the said auto. Ex.A1-certified copy of

FIR, Ex.A2-certified copy of charge sheet and Ex.A3-scene of offence panchanama reveals the rashness and negligence on the part of the driver of the said auto.

8. As per the material placed on record, the deceased died on the intervening night of 11.10.2002 and the injuries mentioned in the Ex.A4-P.M.E. report are possible in a road accident. Admittedly, report was given more than ten days after the occurrence of accident i.e., on the death of the deceased. Ex.A1-FIR was given by the brother of the deceased. The evidence of R.W.1 and the investigation conducted by the police, showing the involvement of the auto bearing No.AP-23/T-5629 in the subject accident, cannot be discarded. There is ample evidence to show that the deceased died due to the injuries sustained in the accident occurred due to rash and negligent driving of the driver of the auto bearing No.AP-23/T-5629. The finding of the Tribunal is based on the evidence on record. There is nothing to take a different view.

9. As per Ex.A4-P.M.E. report, the deceased was 34 years old. The Tribunal took the annual income of the deceased at Rs.24,000/- and after making necessary deductions, awarded Rs.3,60,000/- towards loss of earnings, Rs.15,000/- towards loss of estate and another Rs.15,000/- towards loss of consortium. The Tribunal had dealt with Exs.A5 to A7 and awarded an amount of Rs.1,00,000/- towards medical expenses. In all, the Tribunal granted Rs.4,90,000/- towards compensation.

10. While dealing with the medical bills, such as, Exs.A6 and A7, etc., the Tribunal elaborately dealt with the same and granted

compensation of Rs.1,00,000/- towards medical expenses. The deceased was treated for about ten days in the hospital, which establishes the inconvenience of the deceased. There is justification on the part of the Tribunal in granting compensation of Rs.1,00,000/- towards medical expenses.

11. It is apt to state that Rs.15,000/- towards loss of consortium and Rs.15,000/- towards loss of estate awarded by the Tribunal are meagre. As pointed out, some of the medical bills were issued after the death of the deceased. For that, the explanation offered by the respondent-claimant is that, those medical bills were taken after the death of the deceased. As the Tribunal did not grant adequate compensation on conventional heads, this Court is of the view that it is not appropriate to deduct the amounts awarded towards medical expenses. Therefore, granting of compensation by the Tribunal at Rs.4,90,000/- for the death of the deceased, who was aged 34 years, is justified.

12. In the result, the appeal is dismissed accordingly.

The Miscellaneous Petitions, if any, pending shall stand closed. No costs.

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Dr. SHAMEEM AKTHER, J

Date: 04.09.2018
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