

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3712 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/the New India Insurance Company Limited, aggrieved by the grant of compensation of Rs.3,92,000/- with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.6,00,000/-, to the respondents 1 to 4/claimants, by the learned Chairman, Motor Accident Claims Tribunal – cum – Additional District Judge, Nizamabad (for short, “the Tribunal”) *vide* order, dated 22.07.2002, passed in O.P.No.824 of 1996.

2. Heard the submissions of the learned Standing Counsel appearing for the New India Insurance Company Limited representing the appellant and the learned counsel for the respondents 1 to 4/claimants, and perused the material on record.

3. Learned Standing Counsel for the New India Insurance Company Limited representing the appellant would contend that there is difference in the surname mentioned in the Rythwari Passbook and the Election Identity Card of the deceased P.Ramaswamy; that the Tribunal ought not have taken the monthly income of the deceased P.Ramaswamy @ Gangaram as Rs.2,700/-; that the Tribunal granted excessive compensation of Rs.3,92,000/- against the claim of Rs.6,00,000/- and ultimately, prayed to reduce the compensation and allow the appeal as prayed for.

4. On the other hand, learned counsel for the respondents 1 to 4/claimants would contend that there is a mistake in the I.D. card of the deceased P.Ramaswamy and the Tribunal rightly adjudged all the issues and granted compensation of Rs.3,92,000/- with interest at 9% per annum and there is justification in doing so; that there are no circumstances to vary and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the point that arises for determination:

“Whether the compensation of Rs.3,92,000/- along with costs and interest at 9% per annum awarded by the Tribunal in favour of the claimants is liable to be reduced?”

6. **POINT:-** To substantiate the claim on behalf of the claimants, P.Ws.1 to 5 were examined and Exs.A-1 to A-7 were marked. There is no dispute with regard to the death of the deceased P.Ramaswamy in the motor vehicle accident that occurred on 03.10.1996 due to the rash and negligent driving of the driver of lorry bearing No.MP-24-7144. The Tribunal recorded a clear finding against the said lorry absolving the jeep from rashness and negligence in causing the accident. The Tribunal, having considered the copy of Rythwari Passbook marked as Ex.A-5 and the age of the deceased P.Ramaswamy as 35 years, applied multiplier “17”, took Rs.2,700/- as monthly income of the deceased P.Ramaswamy and granted compensation on different heads i.e., Rs.3,67,200/- towards loss of estate, Rs.15,000/- to the first claimant towards loss of consortium, Rs.5,000/- towards loss of love and affection, Rs.4,800/- towards funeral expenses and in all, the Tribunal granted a compensation of Rs.3,92,000/- with

interest at 9% per annum. The Tribunal has not granted adequate compensation on conventional heads and in view of that, grant of interest at 9% per annum from the date of petition till the date of realisation is just and reasonable. For an agriculturist of 35 years, grant of compensation of Rs.3,92,000/- with interest at the rate of 9% per annum is not excessive. 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.

Date : 06.09.2018
AMD

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