

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No. 531 of 2008

JUDGMENT:

This appeal is directed by the United India Insurance Company Limited against the award dated 06.03.2007 passed by the Motor Accidents Claims Tribunal-cum-II Additional District, Warangal (for short 'the Tribunal), in O.P.No.14 of 2006 whereby the Tribunal awarded compensation of Rs.3,11,970/- together with interest @ 7.5% per annum from the date of petition till the date of realization against the claim of Rs.4,00,000/- on account of the death of the deceased – Matta Malleham in a motor accident that occurred on 27.02.2003 involving the tractor and trailer bearing No.AP 36T 426-427, belonging to the 2nd respondent, which was driven by the 1st respondent and insured with the appellant.

For the sake of convenience, the parties to this appeal will hereinafter be referred as they are arrayed before the Tribunal.

It is the contention of learned standing counsel for Insurance Company that the tribunal erred in finding that the accident occurred due to rash and negligent driving of the driver of the tractor and trailer. Further, the tribunal also erred in fixing the age of the deceased at 30 years, fixing the income of the deceased at Rs.3,000/- per month without any basis and he prayed to allow the appeal by setting aside the award.

Learned counsel for the claimants submitted that the tribunal rightly awarded compensation basing on the evidence adduced by the parties and hence, it needs no interference. Learned counsel for the claimants also submitted that the parents of the deceased i.e. claimants 4 and 5 were died during pendency

of the appeal by filing death certificates to that effect. Therefore, the compensation may be apportioned between claimants 1 to 3 only.

There is no dispute with regard to the accident occurred, involvement of the vehicle and the validity of the policy. When there is no proof for the income, notional income of Rs.3,000/- per month can be taken as held by the Apex Court in number of cases. In so far as granting quantum of compensation is concerned, the tribunal has rightly granted Rs.3,11,970/- under various heads. Hence, this Court feels that the award passed by the tribunal is just and proper and needs no interference. This Court is inclined to give finding to the effect that the parents i.e. claimants 1 to 3 may be permitted to withdraw the apportioned amount of claimant Nos.4 and 5, who died during pendency of the appeal. However, the parties are at liberty to take appropriate steps before the tribunal.

In view of the above, the appeal is dismissed, confirming award dated 06.03.2007 passed by the Motor Accidents Claims Tribunal-cum-II Additional District, Warangal, in O.P.No.14 of 2006. There shall be no order as to costs.

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

T. AMARNATH GOUD, J

05.08.2019
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