

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.313 OF 2011

JUDGMENT:

This appeal is preferred by the appellants/respondents 2 & 3/insurance company questioning the order of the Chairman, Motor Accidents Claims Tribunal-cum-VI Additional District Judge (III FTC), Warangal at Mahabubabad (for short, the Tribunal) in M.V.O.P.No.1457 of 2006 dated 07.11.2007.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that the 1st petitioner is the wife, petitioners 2 & 4 are the sons and 3rd petitioner is the daughter of the deceased-Komuraiah. The deceased was working as labour on a tractor trailer bearing No.AP-36T-7026 and 7027 on a monthly salary of Rs.4,000/-. On 31.07.2005, the deceased along with other labourers attended labour work on a tractor trailer bearing o.AP-36T-7026/7027. While they were returning back to their houses and when the said tractor trailer reached near Turupu thanda at about 7.00 p.m., in the meantime, the driver of the said tractor and trailer drove it in a rash and negligent manner with high speed and lost control over it, as a result, the said tractor turned turtle and the deceased fell down and died on the

spot. The said accident occurred due to the rash and negligent driving of the driver of the tractor. Hence, the petitioners filed the claim petition claiming compensation of Rs.4,00,000/-, payable by respondents 1 to 3, the 1st respondent being the owner and respondents 2 & 3 being the insurers of the offending tractor.

4. In the claim petition, the 1st respondent remained *ex parte*. Respondents 2 & 3 filed counter denying the allegations and contended that the amount claimed by the claimants is highly excessive and that they are not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and documentary evidence of Exs.A-1 to A-21 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending tractor trailer and awarded total compensation of Rs.2,37,000/- with interest @ 7.5% per annum from the date of filing till the date of deposit, i.e., Rs.2,20,000/- towards loss of life and dependency, Rs.15,000/- towards loss of consortium and Rs.2,000/- towards funeral expenses. Aggrieved by the said order, the appellants/respondents 2 & 3/insurance company filed the present appeal.

6. Heard Ms.Maha Lakshmi, learned counsel representing Smt. Ramani Jonna, learned standing counsel for the appellants/insurance company and Sri Ramidi Satyanarayana, learned counsel appearing for respondents 1 to 4/claimants. Perused the material record.

7. Ms.Maha Lakshmi, learned counsel representing Smt. Ramani Jonna, learned standing counsel for the appellants/insurance company, contended that the order passed by the Tribunal in awarding compensation of Rs.2,37,000/- towards the death of the deceased is just and reasonable, but the fastening of liability on the insurance company is unjust since the deceased was traveling as a gratuitous passenger.

8. A fair perusal of the order clearly reveals that the appellants/insurance company have not chosen to adduce any oral or documentary evidence in support of their claim, except marking of Ex.B-1-insurance policy. Further, the evidence reveals that the deceased was not a gratuitous passenger, but he was working upon the tractor and trailer as a labourer. In view of the same, this Court finds that there is no infirmity in the order passed by the Tribunal. Therefore, I see no reason to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

9. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed confirming the award and decree passed by the Tribunal in all respects, including the rate of interest. No order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 19th December, 2019

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