

THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

M.A.C.M.A.No.1743 OF 2010

JUDGMENT:

1 This appeal is filed under Section 173 of M.V. Act, assailing the judgment and award dated 16.6.2010 passed in M.A.T.O.P.No.395 of 2008 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II-Additional District Judge (FTC), Khammam.

2 The facts that led to the filing of this appeal are as follows:

3 For the sake of convenience, the parties to this appeal, shall hereinafter, be referred to as they were arrayed before the Tribunal.

4 On 01.02.2006 the deceased by name Rentala Manikyamma @ Manikyam, aged about 40 years, was going from Wyrā along with others after attending a function at Wyrā, in an Appy auto bearing No.AP 20 U 3997 to their village-M Venkatayapalem, and on the way, when the auto reached near Khammam Urban police station on Wyrā road, Khammam, the driver of the auto drove it in a rash and negligent manner, as a result, it turned turtle. The deceased and other inmates of the auto fell down from the auto on the road and sustained severe injuries. Immediately the injured were shifted to Cure hospital, Khammam, where the deceased succumbed to injuries on 02.02.2006. In connection with the said incident, a case in Cr.No.29 of 2006 was registered against the driver of the auto. The deceased was hale and healthy and used to earn Rs.1,20,000/- p.a. First petitioner is husband and petitioner Nos.2 to 4 are children of the deceased. They filed the above OP claiming compensation of

Rs.3,00,000/- from the respondents who are the owner and insurer of the auto respectively.

5 Both the respondents filed respective counters denying the various averments made in the claim petition. First respondent contended that the vehicle was insured with the second respondent as on the date of accident and hence the second respondent alone has to pay the compensation. Second respondent filed counter denying the material averments made in the petition such as age and avocation of the deceased, *inter alia*, and contended that the driver of the auto was not having valid licence, that at the time of accident, the auto was overloaded and hence the first respondent violated the terms and conditions of the policy and that the compensation claimed is on higher side.

6 During the course of trial, appropriate issues were framed and on behalf of the petitioners P.Ws.1 to 2 were examined and Exs.A.1 to A.4 were marked. On behalf of the second respondent – insurance company, R.Ws.1 and 2 were marked and Exs.B.1 and B.2 were marked.

7 Having appreciated the material available on record, the Tribunal arrived at a conclusion that the accident occurred due to rash and negligent driving of the driver of the auto and allowed the petition in part by awarding compensation of Rs.2,72,000/- and directed the respondent Nos.1 and 2 to deposit the same jointly and severally with interest at 7.5% p.a. Being aggrieved by the award and judgment, the insurance company filed the present appeal.

8 Heard the learned counsel for the petitioners and the learned counsel for the second respondent-insurance company.

9 The point that falls for determination in this appeal is:

“Whether the compensation awarded by the Tribunal is just and reasonable or not?”

Point:

10 The finding of the Tribunal that the accident occurred due to the rash and negligent driving by the driver of the Appy auto bearing No.AP 20 U 3997 became final in view of non-filing of appeal or cross-objections by the respondent Nos.1 and 2. Hence I am of the considered view that the accident occurred due to the rash and negligent driving of the driver of the Appy auto bearing No.AP 20 U 3997.

11 As regards quantum of compensation, the Tribunal fixed the income of the deceased at Rs.70/- per day, which comes to Rs.25,200/- p.a. which in my considered opinion is quite reasonable. For the age group of 35 to 40 years, the appropriate multiplier is 15. Therefore, the compensation comes to Rs.3,78,000/- from out of which 1/3rd has to be deducted towards personal expenses of the deceased. Thus the loss of dependency comes to Rs.2,52,000/-. The Tribunal has awarded Rs.10,000/- towards loss of consortium to the first petitioner and Rs.5,000/- towards funeral expenses and Rs.5,000/- towards loss of estate. The amounts awarded by the Tribunal under different heads is quite reasonable and do not warrant any interference from this Court.

12 Viewed from any angle, the award passed by the Tribunal under different heads is in tune with the evidence both oral and documentary

available on record. Hence I see no grounds to interfere with the award under appeal.

13 In the result, the appeal is dismissed. No order as to costs. As a sequel, miscellaneous petitions pending in this appeal, if any, shall stand closed.

TAMARNATH GOUD, J

Date: 31.7.2019.

Kvr

