

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1348 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the order and decree dated 15.06.2005 passed in O.P.No.775 of 2000 by the Motor Accidents Claims Tribunal (I Additional District Judge), at Mahabubnagar (for short, the Tribunal).

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

3. During the pendency of the appeal, the 2nd respondent was impleaded *vide* order, dated 29.06.2006, passed by this Court in M.A.C.M.A.M.P.No.3673 of 2005.

4. The brief facts of the case are that the deceased- R.Srisailam, who was aged 42 years and working as Head Master at Primary School, Machanpally Village of Kothur Mandal, was going on his Bajaj Chetak Scooter bearing No.AP 22 3158 from Shadnagar to Faruqnagar on 04.07.1999. When he reached near the Government (S.C.) Girls Hostel at Shadnagar, the goods service vehicle bearing No.AP 12T 77 came in opposite direction in a high speed and rash and negligent manner and dashed the scooter of the deceased, as a result the deceased died on the spot. The deceased was earning salary @ Rs.6,262/- per month as on the date of the accident. Hence, the petitioners, who are the kin and kith of the deceased, filed the

claim petition claiming compensation of Rs.4,00,000/-, payable by the 1st respondent, being the owner and insurer of the offending vehicle.

5. Before the Tribunal, the 1st respondent filed counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

6. After considering the evidence produced by the parties, the Tribunal dismissed the claim petition. Aggrieved by the same, the appellants filed the present appeal.

7. Heard Sri S.Krishna Sharma, learned counsel for the appellants, Sri P.Shiv Kumar, learned counsel for the caveator/1st respondent and Sri M.S.Srinivas, learned counsel for the 2nd respondent.

8. The 2nd respondent herein is not a party before the O.P.No.775 of 2000. The petitioners in O.P. ought to have made him a party since he is the owner of the crime vehicle as on the date of the accident. In the present appeal, having known about the pendency of the proceedings, the 2nd respondent filed application seeking impleadment and accordingly, he has been impleaded *vide* order, dated 29.06.2006, passed by this Court in M.A.C.M.A.M.P.No.3673 of 2005. It becomes immense necessary for fastening the liability and also apportionment of the compensation.

9. In view of the above, this Court feels that the 2nd respondent should be given an opportunity of hearing.

10. Accordingly, the appeal is allowed setting aside the order and decree dated 15.06.2005 in O.P.No.775 of 2000 passed by the Tribunal and remanding the matter to the Tribunal to dispose of the said O.P. on merits, as expeditiously as possible, after giving an opportunity of hearing to both sides. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 10th December, 2019

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