

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1346 OF 2006

JUDGMENT:

This appeal is filed by the appellant - 2nd respondent/Insurance Company aggrieved by the Order and Decree dated 25.07.2005 passed in O.P.No.899 of 2000 by the Motor Accidents Claims Tribunal-cum-District Judge, at Nizamabad (for short, the Tribunal).

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

3. The brief facts of the case are that on 18.01.2000, while the deceased Siddavva was travelling in the lorry bearing No.AP-25/T-8447 from Hyderabad to Nagpur on Highway No.7 and the driver of the lorry was driving the vehicle very slowly on the side of the road, at about 10:00 A.M., when the vehicle reached near Kuprial Bus Stage, another lorry bearing No.MP-09/KB-4224 driven by its driver at high speed and in a rash and negligent manner came from opposite direction on wrong side of the road dashed against the lorry in which the deceased was traveling, due to which the deceased along with others received injuries to head, crush injuries and multiple fractures on other parts of the body. The deceased was admitted in the Government Hospital, Kamareddy, and on the same day, she succumbed to injuries. The petitioners incurred

Rs.10,000/- towards treatment. The deceased was aged 30 years at the time of accident; was hale and healthy and was working as labourer and earning Rs.3,000/- per month and used to contribute her earnings for the welfare of her family. The 1st petitioner is the husband and petitioners 2 to 4 are the children of the deceased. The petitioners filed the claim petition claiming compensation of Rs.3,00,000/-, on account of death of the deceased, payable by respondents 1 and 2, being the owner and insurer of the offending lorry.

4. Before the Tribunal, respondent No.1 – owner of the lorry remained *ex parte* and respondent No.2 filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 and 2 and the documentary evidence of Exs.A-1 to A-5, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending lorry and awarded total compensation of Rs.3,24,000/-. The Tribunal has taken the income of the deceased as Rs.1,500/- per month or Rs.18,000/- per annum and the multiplier as '18', since the deceased was aged 30 years at the time of accident, which comes to Rs.3,24,000/- ($\text{Rs.18,000/-} \times 18 = \text{Rs.3,24,000/-}$) with interest at 9% per annum from the date of petition till the date of realization payable by both the respondents. Aggrieved

by the same, the appellant- 2nd respondent/Insurance Company filed the present appeal.

6. Heard both sides.

7. The order passed by the Tribunal is just and proper in the light of the Apex Court judgments with regard to fixing of notional income and applying the multiplier. However, with regard to the interest awarded by the Tribunal at 9% per annum from the date of petition till the date of realisation is very excessive and in view of the several decisions of the Apex Court, this Court feels that it would be just and appropriate, if the interest granted by the Tribunal at 9% per annum is reduced to 7.5% per annum on the awarded amount of Rs.3,24,000/-. Except the said modification, the remaining operative portion of the impugned order is confirmed.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by reducing the interest from 9% per annum to 7.5% per annum on the compensation amount of Rs.3,24,000/- awarded by the Tribunal from the date of petition till the date of realization payable by both the respondents. No costs. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date:19.11.2019

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