

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1501 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant, challenging the Award and Decree dated 15.02.2006 passed in O.P.No.526 of 2004 by the Motor Accident Claims Tribunal-cum-XIII Additional Chief Judge (FTC), City Civil Court, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that the appellant is the wife of the deceased Thummala Janardhan Reddy. On 23.09.2003 at about 7.30 A.M., while the deceased was traveling as pillion rider on Hero Honda Motor Cycle bearing No.AP24J 5871 of respondent No.1 from Ismailpalli towards Nalgonda town, and when they reached the outskirts of Marriduga village, the rider of the motorcycle drove the same in a rash and negligent manner with high speed and jumped from the motorcycle. In the said accident, the deceased sustained grievous injuries and died on 14.10.2003 while undergoing treatment. The appellant filed aforesaid OP against respondent Nos.1 and 2, owner and insurer of the motorcycle, respectively, seeking compensation of Rs.2,00,000/- for the death of the deceased.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 filed counter denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the petitioner is excessive, exorbitant, imaginary and out of proportion and sought to dismiss the petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the motorcycle, and awarded a total compensation of Rs.1,35,500/- i.e., Rs.1,20,000/- towards loss of dependency, Rs.1,000/- towards transportation charges, Rs.5,000/- towards medical expenses, attendant charges and extra nourishment, Rs.5,000/- towards loss of consortium, Rs.2,500/- towards loss of estate and Rs.2,000/- towards funeral expenses, with interest @ 6% per annum. The Tribunal observed that since the appellant has not made the other legal heirs of the deceased as petitioner or respondents, she is entitled to 1/4th of the compensation awarded by it i.e., Rs.38,375/-. Dissatisfied with the order passed by the Tribunal, the appellant filed the present appeal.

5. Sri S.Bhooma Goud, learned counsel for the appellant/claimant, submits that though the Tribunal awarded total compensation of the Rs.1,35,500/- under various heads for the death of the deceased, but it has wrongly held that the appellant is entitle for 1/4th of the compensation. He further submitted that the compensation awarded by the Tribunal is very meager and therefore prayed to enhance the same.

6. Sri Kota Subba Rao, learned counsel for respondent No.2, submitted that the Tribunal passed a well reasoned order and therefore, sought to dismiss the appeal.

7. A perusal of the record reveals that the appellant is the wife of the deceased and she got two sons and one daughter. The appellant has not made the other legal heirs of the deceased as petitioners or respondents. As per Section 166 of the Motor Vehicles Act, 1988, the application for compensation can be filed by all the legal heirs of the deceased or any agent duly authorized by the legal representatives of the deceased. In the present case on hand, other legal representatives of the deceased are not made as parties to the proceedings. The Tribunal ought to have returned the claim petition at the time of assigning number to the petition or directed the petitioner to add the other legal representatives of the deceased as parties. Instead of doing so, the Tribunal after appreciation of oral and documentary evidence, awarded total compensation of Rs.1,35,500/-, and observed that the appellant is entitled for 1/4th of the compensation awarded by it.

8. Accordingly, the appeal is disposed of remanding the matter to the Tribunal for fresh disposal by bringing all the legal heirs of the deceased on record. Since the matter pertains to the year 2003, the Tribunal is directed to dispose of the same as expeditiously as possible, by giving reasonable opportunity to both sides, in view of the observations made above. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 31.10.2019.
Shr.