

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2575 OF 2006

JUDGMENT:

This appeal is filed by the appellants aggrieved by the Award and Decree dated 21.07.2006 passed in O.P.No.9 of 2004 by the Motor Accident Claims Tribunal-cum-II Additional District Judge Karimnagar at Jagtial (for short, the Tribunal).

2. The brief facts of the case are that originally the injured Nakka Rajam filed the claim petition under Section 166 (1) (a) of the Motor Vehicles Act. During the pendency of the claim petition, the injured died and claimants Nos.2 to 4 were added as his legal representatives. Appellant No.1 is the injured (deceased), appellant No.2 is the wife, appellant Nos.3 to 5 are minor daughters of the deceased. On 06.10.2003 at about 6.00 PM., while the injured was proceeding on his motorcycle and when he reached near bus stand of Venkataopalli village, the driver of the lorry bearing No.APJ 3955, dashed the motorcycle. In the said accident, the victim sustained injuries on his head and right leg. He filed the aforesaid OP against respondent Nos.1 to 3, driver, owner and insurer of the lorry, respectively, claiming compensation of Rs.1,50,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent Nos.1 and 2 remained *ex parte*. Respondent No.3 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.

4. After considering the oral and documentary evidence on record, the Tribunal awarded total compensation of Rs.1,26,348/-, but dismissed the OP, observing that the victim failed to prove that

the accident occurred out of the involvement of the vehicle shown in the claim petition. Challenging the said Award, the appellants filed the present appeal.

5. Sri D.Bhaskar Reddy, learned counsel appearing for the appellants, submitted that though in Ex.A1 FIR., it is stated that the accident occurred due to the negligence of the driver of unknown vehicle, but after conducting investigation, the police filed charge sheet Ex.A2, stating that the accident occurred due to the negligent driving of the driver of the lorry shown in the claim petition. Therefore, he submitted that the appeal is liable to be allowed by setting aside the award passed by the Tribunal.

6. Sri N.S.Bhaskara Rao, learned counsel appearing for respondent No.3, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. As seen from the record, on the strength of the evidence collected during the course of investigation, the concerned police filed Ex.A2-charge sheet, which is a crucial document in the matter of accident claims, stating that the driver of the crime vehicle caused the accident and he was remanded to juridical custody. In view of the same, this Court is of the opinion that the appellants have proved that the accident occurred due to the rash and negligent driving of the driver of the lorry. Therefore, the finding of the Tribunal in this regard is set aside.

8. Insofar as quantum of compensation awarded by the Tribunal is concerned, the Tribunal granted a total sum of Rs.1,26,348/- by considering the oral and documentary adduced before it, which in the opinion of this Court, is just and proper. Therefore, the finding

of the Tribunal in this regard is confirmed. Under issue No.3, though the Tribunal found that the claimants are entitled to aforesaid compensation, dismissed the OP, which in the opinion of this Court is not proper and hence, the said finding is hereby set aside.

9. Accordingly, the Motor Accident Civil Miscellaneous Appeal is allowed, granting compensation of Rs.1,26,348/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization. Respondent No.3 insurance company is directed to deposit the said amount within two months from the date of receipt of a copy of this judgment. The compensation amount will be apportioned among the appellants as per the award of the Tribunal in the above O.P. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 06.11.2019
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