

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.1798 OF 2006

JUDGMENT:

This appeal is preferred by the appellants/claimants questioning the order of the Motor Accident Claims Tribunal-cum-VI Additional District Judge, Mahabubnagar (for short, the Tribunal) in O.P.No.1003 of 1999 dated 05.06.2006.

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

3. The brief facts of the case are that the 1st petitioner is the mother and the 2nd petitioner is the younger brother of the deceased-Chandramulu. On 16.03.1999 at about 12.45 noon, the deceased was going to Narayanpet on a Hero Honda Motor Cycle bearing No.MGQ-5088, while the deceased was proceeding in the outskirts of Narayanpet before Santosh Rice Mill, he observed one cyclist was coming in opposite direction. The deceased took his motorcycle on his left side. Meanwhile, the tractor bearing No.AP 22T 7183 and trolley bearing No.AP 22T 7184 came behind the deceased in a rash and negligent manner and hit the deceased. The tractor and trolley ran over the body of the deceased, due to which the deceased died on the spot. Due to the sudden death of the deceased, the petitioners have lost the income of the deceased and also love and affection. Hence, the petitioners filed the claim petition claiming compensation of Rs.2,00,000/-, payable by both the

respondents, being the owner and insurer of the offending tractor & trolley.

4. In the claim petition, the 2nd respondent/insurance company filed its counter denying the allegations and contended that the amount claimed by the claimants is highly excessive and that it is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and R.W.1 and the documentary evidence of Exs.A-1 to A-5 & Exs.B-1 to B-3, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending tractor & trailer and awarded total compensation of Rs.50,000/- under no fault liability, with interest @ 7.5% per annum from the date of filing of the petition till the date of deposit. Aggrieved by the said order, the appellants/claimants filed the present appeal.

6. Heard.

7. A perusal of the order reveals that the Tribunal passed a well considered order by taking into consideration all the aspects and as against the claim of Rs.2,00,000/-, the Tribunal awarded an amount of Rs.50,000/- under no fault liability with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of realization. Since the requirement under Section 166 of the Motor Vehicles Act,1988, with regard

to the rash and negligent driving of the driver of the offending tractor & trailer has not been proved and basing on the evidence of the police investigation report, which is filed as a final report, clearly indicates that but for the overtaking of the tractor & trailer by the deceased on his Hero Honda Motorcycle, he went and dashed against the cyclist, who came in opposite direction and fell under the tyres of the tractor & trolley. The said accident has occurred not because of the rash and negligent driving of the driver of the tractor & trailer, but for the rash and negligent driving of the deceased himself. In view of the same, the Tribunal has awarded Rs.50,000/- under no fault liability under Section 140 of the Motor Vehicles Act, 1988. Therefore, I see no reason to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

8. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed confirming the award and decree passed by the Tribunal in all respects, including the rate of interest. No order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 21st November, 2019

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