

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1214 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 16.11.2005 passed in O.P.No.994 of 2003 by the Chairman, Motor Accidents Claims Tribunal (V Additional District Judge), at Nizamabad (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. The brief facts of the case are that the 1st petitioner is the wife and petitioners 2 & 3 are the children of the deceased-Samperla Poshanna. The deceased was aged about 48 years as on the date of accident and earning Rs.12,000/- per month from agriculture. On 22.07.2002 at about 6.30 p.m., the deceased was proceeding from his house by walk by the left side of the road very cautiously. When he reached main road of Bussapur Village, the crime motor bicycle bearing No.AP 25H 0394 came in high speed rashly and negligently and dashed the deceased. As such, the deceased sustained serious injuries i.e., fracture to right hip, abrasion to forehead, laceration to left thigh, fracture to left chest ribs of 10th, 11th head injury. Immediately, he was shifted to Government Head Quarters Hospital, Nizamabad, where the duty medical officer and other private doctors attended on the deceased, but he died on 08.11.2002 while

undergoing treatment at Dimmadurty of Mamda Mandal, Adilabad District. Due to the death of the deceased, the petitioners sustained mental shock and subjected to monetary loss. Hence, the petitioners filed the claim petition claiming compensation of Rs.1,40,000/-, payable by both the respondents, being the owner and insurer of the crime vehicle.

4 Before the Tribunal, the 1st respondent remained *ex parte*. Respondent No.2 filed 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.W.1 and the documentary evidence of Exs.A-1 to A-7 & Ex.B-1, the Tribunal came to the conclusion that the petitioners failed to prove by cogent evidence that in fact the crime vehicle caused the accident and its driver has driven it in a rash and negligent manner and the Tribunal opined that the accident has not occurred due to rash and negligent driving of the motorcycle bearing No. AP 25H 0394 and dismissed the claim petition. Aggrieved by the said order, the appellants/claimants filed the present appeal, seeking compensation.

6. In spite of service of notice, there is no representation for the 2nd respondent/insurance company on the last occasion and even when the matter is listed today, there is no representation for the 2nd respondent/insurance company. Since this matter pertains to the year 2006 and the accident has taken place on

22.07.2002, dodging the matter on one pretext or the other is of no purpose. Hence, the matter is decided on the strength of the evidence and material available on record and after hearing Sri K.Sarala Mahender Reddy, learned counsel appearing for the appellants/claimants and perusing the material record.

7. As seen from Ex.A-3-charge sheet, wherein categorically it is stated by the investigating officer that during his investigation, he arrested the accused driver of the crime vehicle and he has remanded him for judicial custody on his confession. It cannot be ignored that no sane person would come forward for any reason and confess before the investigating officer about the crime committed by him and would go to jail. The reason though not explained for filing the complaint with a delay, it has to be seen with the background of the claimants and the injured person, they are illiterate agriculturists and the priority would obviously be given for shifting the injured person to the hospital and attending him for the treatment rather than going and filing a complaint before the police station. But for not filing the complaint within time or immediately, the delay cannot come in the way for denying the compensation.

8. In the light of the above discussion with regard to Ex.A-3-charge sheet, this Court is of the considered view that accident has taken place and as per Ex.A-5-injury certificate, there are two grievous injuries i.e., fracture to right hip and fracture to left

chest ribs of 10th & 11th and two simple injuries i.e., abrasion to forehead and laceration to left thigh.

9. In view of the above, this Court feels that awarding compensation of Rs.15,000/- for each for the two grievous injuries and Rs.2,000/- each for the two simple injuries would be meeting the ends of justice. Therefore, the total compensation comes to Rs.34,000/- (Rs.15,000/- + Rs.15,000/- + Rs.2,000/- + Rs.2,000/-).

10. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed by awarding compensation of Rs.34,000/-, payable by both the respondents jointly and severally. The compensation amount shall carry interest @ 7.5% per annum from the date of petition till the date of realization. The respondents are directed to deposit the compensation amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw the entire amount. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand closed.

T.AMARNATH GOUD, J

Date: 29th October, 2019

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