

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.164 OF 2011

JUDGMENT:

This appeal is filed by the appellant-2nd respondent/insurance company aggrieved by the Order and Decree dated 02.06.2005 passed in O.P.No.242 of 2002 by the Motor Accident Claims Tribunal (District Judge), 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 on 13.01.2002 the deceased-Pasula Lavanya was going on the side of the road by walk from M.S.C. farm towards Bapunagar Tanda side on Bodhan to Nizamabad road. At about 9.00 a.m., when she reached near Bapunagar bridge, at the same time lorry bearing No.AAT-3235, driven by its driver at high speed and in rash and negligent manner came from opposite direction on wrong side of the road and dashed the deceased with front portion of the lorry, due to which the front wheel of the lorry ran over the deceased resulting head injuries, crush injuries, multiple fractures and she was shifted to the Government Hospital, Bodhan. Thereafter, she was referred to the Government Head Quarters Hospital, Nizamabad, and was referred to Gandhi Hospital, Secunderabad. On 14.01.2002 at about 3.00 a.m., she succumbed to the injuries. Prior to the accident, the deceased was aged 10 years, she was student-cum-agriculturist

and was earning Rs.3,000/- per month and was contributing her earnings to the petitioners. Hence, the petitioners, who are the parents of the deceased, filed the claim petition claiming compensation of Rs.4,00,000/-, payable by both the respondents, being the owner and insurer of the offending lorry.

4. Before the Tribunal, the 1st respondent remained *ex parte*. The 2nd respondent filed written statement 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 to 3 and the documentary evidence of Exs.A-1 to A-5 & Ex.B-1, 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.2,25,000/- with interest @ 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. Perused the material record.

7. The order passed by the Tribunal is just and proper in the light of the Apex Court judgments with regard to granting of compensation. However, with regard to the interest awarded by the Tribunal @ 9% per annum from the date of petition till the date of

realisation, which is very excessive, 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 @ 9% is reduced to 7.5% on the awarded amount of Rs.2,25,000/-. 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% to 7.5% on the compensation amount of Rs.2,25,000/- 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: 19th December, 2019

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