

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.2443 OF 2008

JUDGMENT:

This appeal is preferred by the appellant/2nd respondent/insurance company questioning the order of the learned V Additional Metropolitan Sessions Judge (Mahila Court)-cum-XIX Additional Chief Judge, City Criminal Courts, at Hyderabad (for short, the Court below), in O.P.No.2653 of 2006 dated 12.06.2008 (for short, 'Court below').

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 petitioners 1 & 2 are the father and mother of the deceased. On 06.03.2006 at about 7.00 a.m., when the deceased was going on foot by the side of the road and when she reached near Guntur Vikas College, at Hydernagar bus stop, a Hero Honda Splender motor cycle bearing No.AP 28 AE 7560 came in a rash and negligent manner, proceeding from BHEL towards Kukatpally and dashed against the deceased, as a result of which the deceased sustained fractures to head, chest bones and legs, besides other injuries. She was shifted to Apollo Hospital, Kukatpally, and after first aid, she was shifted to NIMS Hospital, Panjagutta. The deceased was studying Intermediate and was also doing part time tailoring and earning Rs.3,250/- per month. She has been contributing her income to the petitioners. Due to her sudden death, the petitioners, who had

lot of hopes on her future, are put to loss of all such hopes and also future support. Hence, the petitioners filed the present claim petition claiming a compensation of Rs.4,00,000/-.

4. In the claim petition, the 1st respondent remained *ex parte*. The 2nd respondent filed a 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 and documentary evidence on record, the Court below came to the conclusion that the accident occurred due to the rash and negligent driving of the motor cycle and awarded total compensation of Rs.2,67,000/- with interest @ 7% per annum i.e., Rs.2,56,900/- towards loss of future income, Rs.10,000/- towards loss of love and affection and Rs.16,996/- towards medical expenses. Aggrieved by the said order, the appellant/2nd respondent/insurance company filed the present appeal.

6. Heard.

7. A perusal of the order reveals that the Court below passed a well considered order by taking into consideration all the aspects and as against the claim of Rs.4,00,000/-, the Court below awarded an amount of Rs.2,67,000/- with interest @ 7% per annum. The Tribunal has framed the Issue No.1 as to whether the accident took place on 06.03.2006 at about 7.00 a.m., due to rash and negligent driving of Hero Honda Motor cycle bearing

No.AP 28AE 7560, by its driver, to which the Tribunal has categorically stated that the accident has occurred due to the rash and negligent driving of the motor cycle and has answered Issue No.1 in favour of the claimants. With regard to Issue No.2 as to whether the claimants are entitled for compensation, if so, to what amount and from whom, is concerned, since the present appeal is filed by the 2nd respondent/insurance company and the claimants have already filed another appeal in MACMA.No.4312 of 2008 challenging the impugned order seeking enhancement of the compensation, this Court feels that it would be just and proper to pass appropriate orders on merits in MACMA.No.4312 of 2008, which is filed by the claimants with regard to enhancement of compensation and this Court is not inclined to go into that aspect of the matter in the present appeal, as the present appeal is filed by the 2nd respondent/insurance company. In the light of the finding given by the Court below in fastening the liability against the 2nd respondent/insurance company, which has preferred the present appeal, this Court finds that there is no infirmity or irregularity in the impugned order. Therefore, the appeal is liable to be dismissed.

8. With the above observation, the Motor Accident Civil Miscellaneous Appeal is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 23rd September, 2019
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