

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2349 OF 2006

JUDGMENT:

This appeal is filed by the appellant-2nd respondent/insurance company aggrieved by the Order and Decree dated 13.06.2006 passed in O.P.No.725 of 2003 by the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-II Additional District Judge (FTC), At Adilabad (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 05.03.2003 at about 8.30 p.m., while the deceased-Domaji Narayana along with wife, the 1st petitioner, were traveling on a scooter from Dilawarpur Village to Satgaav and when they reached the Narsapur (G) crossing, one lorry bearing No.AP 11T-2979 suddenly came in a rash and negligent manner at high speed from the opposite direction and dashed against the petitioner's scooter, as a result of which the said Narayana had received severe head injuries and died on the spot. The 1st petitioner had also sustained injuries. The deceased was employed at Gram Panchayat and used to look after the electricity and water supply maintenance to the Dilawarpur Village and he also used to attend to agriculture work. The petitioner used to earn Rs.50,000/- per annum from agriculture and an amount of Rs.2,500/- per month as electrician

from Dilawarpur Gram Panchayat. The deceased was aged about 40 years at the time of the accident and he used to contribute his entire income for the welfare of his family members. The 1st petitioner is the wife, petitioners 2 to 4 are the children and the 5th petitioner is the mother of the deceased. Therefore, the petitioners filed the claim petition claiming compensation of Rs.5,00,000/- payable by both the respondents, being the owner and insurer of the offending lorry.

4. Before the Tribunal, Respondent No.2 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.

5. After considering the oral evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-9, 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.4,95,000/-, i.e., Rs.4,50,000/- towards loss of income, Rs.15,000/- towards loss of consortium, Rs.15,000/- towards loss of estate & Rs.15,000/- towards funeral and other incidental expenses, 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.

7. The order passed by the Tribunal is just and proper in the light of the Apex Court judgments with regard to fixing of notional income and applying the multiplier and granting conventional heads. 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.4,95,000/-. 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.4,95,000/- 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: 30th October, 2019

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