

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**M.A.C.M.A.Nos.2243 OF 2006 and 2244 OF 2006**

**COMMON JUDGMENT:**

M.A.C.M.A.No.2243 of 2006 is preferred by the appellant/claimant, wife of the deceased-Pyata Narsimulu, questioning the order, dated 28.08.2006, in O.P.No.247 of 2006, and M.A.C.M.A.No.2244 of 2006 is preferred by the appellants/claimants, mother and sister of the deceased-Pyata Narsimulu, questioning the order, dated 28.08.2006, in O.P.No.794 of 2004, passed by the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-The Principal District Judge, Medak at Sangareddy (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 02.09.2004 the deceased-Pyata Narsimlu was pillion rider on the Hero Honda motorcycle bearing No.AP 9D 2166 driven by the 1<sup>st</sup> respondent at 7.00 p.m. when it reached near Gouthapur cross road in the limits of Chandur Village, the 1<sup>st</sup> respondent drove the motorcycle in a rash and negligent manner and dashed to a culvert, due to which the accident occurred, both the rider and the pillion rider fell down and sustained injuries. The deceased was shifted to Government Hospital, Hyderabad, and while undergoing treatment, he succumbed to the said injuries. The petitioner in O.P.No.247 of 2005 is the wife of the deceased and the petitioners in O.P.No.794

of 2004 are the mother and sister of the deceased. Prior to the accident, the deceased was aged about 25 years and was working as a mason and also agricultural work and earning Rs.5,000/- per month. Hence, both the claim petitions were filed claiming compensation of Rs.4,00,000/-, payable by respondents 1 & 2.

4. In the claim petitions, respondents 1 & 2 filed separate counters denying the allegations and contended that the amount claimed by the claimants is highly excessive and that they are not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 to 3 and R.W.1 and documentary evidence of Exs.A-1 to A-7 and 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 crime vehicle and the Tribunal awarded total compensation of Rs.4,00,000/- in all aspects, wherein Rs.2,00,000/- was apportioned to the share of the petitioner, who is the wife of the deceased, in O.P.No.247 of 2005, Rs.1,50,000/- was apportioned to the share of the 1<sup>st</sup> petitioner, who is the mother of the deceased, in O.P.No.794 of 2004, and Rs.50,000/- was apportioned to the share of the 2<sup>nd</sup> petitioner, who is the sister of the deceased, in O.P.No.794 of 2004, with interest @ 7.5% per annum from the date of petition till the date of realization to be payable by the 1<sup>st</sup> respondent only and the Tribunal observed that the 2<sup>nd</sup> respondent/insurance company is not liable to pay the

compensation since it owned no liability towards the injuries suffered by the deceased, who was a pillion rider, as the insurance policy was a statutory policy and hence, it did not cover the risk of death of or bodily injury to gratuitous passengers. Aggrieved by the said order, the claimant in O.P.No.247 of 2005 filed M.A.C.M.A.No.2243 of 2006 and the claimants in O.P.No.794 of 2004 filed M.A.C.M.A.No.2244 of 2006.

6. Heard Sri P.Sriharinath, learned counsel for the appellants and Sri E.Venugopal Reddy, learned standing counsel for the 2<sup>nd</sup> respondent/insurance company in both the appeals. Perused the material records.

7. Sri E.Venugopal Reddy, learned standing counsel for the 2<sup>nd</sup> respondent/insurance company, contended that the order passed by the Tribunal is well considered in the light of the decision of the Apex Court reported in **United India Insurance Co. Ltd. Shimla v. Tilak Singh**<sup>1</sup>, wherein it was held that in the cases of act policy, pillion rider is not entitled for any compensation and whereas if it is a package policy, as the two wheeler is covered, the pillion rider is also entitled for compensation.

8. Having regard to the facts and circumstances of the case and the submissions made by the learned standing counsel for the 2<sup>nd</sup> respondent/insurance company, this Court is of the opinion that the order passed by the Tribunal is well considered. Therefore, I

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<sup>1</sup> 2006(1) Decisions Today (SC) 479

see no reason to interfere with the order of the Tribunal and both the appeals are liable to be dismissed.

9. Accordingly, both the Motor Accident Civil Miscellaneous Appeals are 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: 21<sup>st</sup> November, 2019

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