

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.2457 OF 2019

JUDGMENT:

This Appeal is filed by the Appellant Insurance Company-Respondent No.2 in M.V.O.P.No.103 of 2013 being aggrieved by the order and decree dated 25.1.2019 passed in M.V.O.P.No.103 of 2013 on the file of Judge, Family Court-cum-VIII Additional District Judge, Mahabubnagar.

2. The brief facts of the case are that on 10.11.2012 at around 20.00 hours, the deceased Ramanjaneyulu while riding a new unregistered Hero Honda Motorcycle bearing No.AP22 TU/TR 2422 along with his co-brother P.Anjaneyulu as pillion dashed to a parked lorry bearing No.AP 22 V 9144, due to which both fell down and sustained injuries and the deceased died on his way to Hospital in 108 Ambulance. Aggrieved thereby, the dependants of the deceased preferred O.P. claiming compensation of Rs.6,00,000/- (Rupees six lakhs only) with interest @ 18% per annum from the date of petition till the date of realization. The trial Court examined P.Ws.1 and 2 and marked Exs.A1 to A5 and on behalf of Respondent Insurance Company, R.W.1 was examined and Exs.B1 to B3 were marked. The trial Court, allowed the O.P. by awarding compensation of Rs.12,94,000/- (Rupees twelve lakhs and ninety four thousand only) with interest @ 9% per annum. Aggrieved thereby, the present appeal is preferred by the Insurance Company.

3. The learned Standing Counsel appearing for Appellant-Insurance Company submits that the accident was occurred due to the rash and negligent driving of the deceased himself and more over the deceased was not having valid licence at the time of accident and therefore the

Insurance Company is not liable to pay any compensation. The learned counsel further submits that the compensation awarded by the trial Court is very exorbitant in the facts and circumstances of the case.

4. On a perusal of the award, it can be seen that the trial Court has categorically observed that though the vehicle was covered with Insurance policy, the Appellant Insurance Company has not adduced any evidence in support of their claim by summoning record from the concerned Regional Transport Officer to show that the deceased was not having valid licence at the time of accident.

5. In view of the same and having regard to the facts and circumstances of the case, this C.M.A. is allowed, setting aside the order and decree passed in M.V.O.P.No.103 of 2013 dated 25.1.2019 on the file of Judge, Family Court-cum-VIII Additional District Judge, Mahabubnagar and the matter is remanded to the trial Court for fresh disposal. The trial Court after affording opportunity to both sides for adducing oral and documentary evidence, shall dispose of the matter as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this judgment. It is open to both parties to raise any other ground before the trial Court and the trial Court is also at liberty to frame any other issue, if so required. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

T.AMARNATH GOUD, J

Date: 19.12.2019
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19.12.2019