THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.189 OF 2011

JUDGMENT:

This appeal is preferred by the appellant/2nd respondent/insurance company questioning the order of the Additional Chief Judge-cum-Judge, Family Court, Secunderabad, FAC of I Additional Chief Judge, City Civil Court, Secunderabad (for short, the Court below) in M.V.O.P.No.257 of 2008 dated 05.08.2010.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Court below in the original petition.

3. The brief facts of the case are that the 1st petitioner is the wife and the 2nd petitioner is the son of the deceased-D.Rama Lingam. On 26.05.2008 at about 5.10 hours, the deceased, aged 54 years, worked as Police Constable in A.P. Special Police, while on duty at Raj Bhavan Relief Commander, went to take tea in the hotel, which is opposite Raj Bhavan and while returning to his duty when crossing the road, suddenly one motor cyclist proceeding from Yashoda Hospital towards V.V. Statue came with high speed with rash and negligent manner hit the deceased, due to which, he sustained bleeding injuries and died on the spot. Hence, the petitioners filed the claim petition claiming compensation of Rs.16,00,000/- with interest @ 18% per annum from the date

of petition till the date of realization and costs, payable by both the respondents, being the owner and insurer of the offending vehicle.

4. In the claim petition, respondents 1 & 2 filed separate counters and written statement 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 documentary evidence of Exs.A-1 to A-15 & Ex.B-1, the Court below came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle and awarded total compensation of Rs.13,30,748/- with interest @ 7.5% per annum from the date of filing till the date of realization, i.e., Rs.12,98,748/- towards loss of income and Rs.32,000/- towards loss of estate, loss of consortium and funeral expenses. Aggrieved by the said order, the appellant/2nd respondent/insurance company filed the present appeal.

6. Heard both sides. Perused the material record.

7. Sri Kota Subba Rao, learned standing counsel for the appellant/insurance company, contended that the quantum of compensation awarded by the Court below is excessive and

more over, the compensation for the death of the deceased, who was working as a State Government employee in the Police Department was granted by the Government and also compassionate appointment has been provided to the child of one of the claimants and hence, the same has to be re-determined and the amount has to be reduced.

8. It is no good law that because the claimants have got a benefit from other sources, they have be to deprived with regard to their compensation amount under the Motor Vehicle Accidents Claim. In view of the same, this Court finds that there is no infirmity in the order passed by the Court below. Therefore, I see no reason to interfere with the order of the Court below and the appeal is liable to be dismissed.

9. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed confirming the award and decree passed by the Court below 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: 19th December, 2019

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