THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.795 of 2011

JUDGMENT:

Aggrieved by the order dated 25.01.2011 passed by the Motor Accident Claims Tribunal-cum-I Additional District Judge, Medak at Sangareddy (for brevity 'the Tribunal') in M.V.O.P.No.479 of 2009, the insurance company filed this appeal.

2. The facts of the case, in brief, are that on 01.10.2008, when the deceased was going as a pillion rider on the Hero Honda motorcycle driven by her cousin from Jogipet to Sangareddy, a lorry bearing registration No.BH-20-GA-1562 came from behind the motor cycle in a rash and negligent manner and dashed the motor cycle, as a result, the deceased sustained multiple injuries and died instantaneously. Hence, respondent Nos.1 and 2 herein, who are the parents of the deceased, filed the aforesaid O.P. claiming compensation of Rs.4,00,000/- for the death of the deceased.

3. Before the Tribunal, respondent Nos.3 and 4 herein, the owner and the driver of the offending lorry, respectively, remained *ex parte*. Respondent No.2 filed its counter denying the averments of the claim petition and contended that the accident occurred due to the negligence on the part of the driver of the Hero Honda motor cycle.

4. Appreciating the oral and documentary evidence on record, especially in view of Exs.A-1 to A-3, i.e., certified copies of the F.I.R., charge sheet and scene of offence panchanama, respectively, coupled with the evidence of P.W-2, this Court is of the opinion that the Tribunal rightly held that the accident occurred due to negligence on the part of the driver

of the offending lorry, which came from behind in a rash and negligent manner and dashed against the motorcycle driven by P.W-2.

5. Sri V.Venkata Rami Reddy, learned counsel for the appellant insurance company, contended that the compensation awarded by the Tribunal is excessive and that as there was violation of conditions of the policy, the insurance company is not liable to pay the compensation to the claimants.

6. Sri P.Laxma Reddy, learned counsel for respondent Nos.1 and 2/claimants, submitted that the Tribunal having meticulously considered the oral and documentary evidence on record, rightly awarded compensation of Rs.5,14,000/-, which is not excessive and sought to dismiss the appeal.

7. In the present case, it is apt to note that the deceased was a young girl aged 17 years and was unmarried. Exs.A-5 to A-9 fortify the plea of the claimants that she was a student. Further, Ex.A-7-SSC certificate of the deceased shows that she secured more than 70% marks in all the subjects. That being so, she might have had a bright future and on her securing employment, she would have contributed her considerable earnings to her family. Considering all these facts, the Tribunal rightly took the income of the deceased at Rs.3,000/- per month. Thus, the Tribunal has computed the compensation payable to the claimants towards 'loss of income' as Rs.5,04,000/-.

8. Apart from the same, the Tribunal has awarded Rs.5,000/- each to respondent Nos.1 and 2 herein, who are the parents of the deceased, towards loss of love and affection.

9. As regards the fastening of liability on the appellant insurance company to pay the compensation amount of Rs.5,14,000/- jointly and severally along with respondent Nos.3 and 4 herein, though the appellant insurance company pleaded that there was breach of conditions of the policy, it did not choose to examine any witness on its behalf in this regard.

10. In the light of the above, this Court is of the considered opinion that the compensation awarded to respondent Nos.1 and 2 herein/claimants is just and reasonable and does not require any interference by this Court and therefore, the appeal filed by the insurance company is liable to be dismissed.

11. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed.

Miscellaneous petitions pending, if any, shall stand dismissed. There shall be no order as to costs.

T.AMARNATH GOUD, J

01st August, 2019
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