

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A. No.4434 OF 2003

JUDGMENT:

This appeal is filed by the appellant-2nd respondent/insurance company aggrieved by the Order and Decree dated 10.02.2003 passed in O.P.No.336 of 2002 by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, 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 the 1st petitioner is the wife, petitioners 2 to 5 are the minor children and petitioners 6 & 7 are the parents of deceased-M.Ramchander. On 15.12.2001 at about 5.00 p.m., while the deceased along with two others were proceeding in the jeep bearing No.AP 1B 8833 from Basar to Mandamarri, by the time they reached near Medaram sub-station, the driver of the jeep drove the same at high speed in a rash and negligent manner and dashed against the tractor and trolley due to which the jeep turned turtle and in that accident, the deceased received grievous injuries and he was shifted to the Government Hospital, Mancherial, and that after first aid, the deceased was referred to M.G.M. Hospital, Warangal, and while undergoing treatment, the deceased succumbed to the injuries on 17.12.2001. The jeep belonged to the 1st respondent and it was insured with the 2nd respondent. The accident took place

on account of the fault of the driver of the 1st respondent. Prior to the accident, the deceased was working as coal filler at KK.1 incline in S.C.C. Ltd. and was drawing salary of Rs.8,000/- per month. The petitioners are the dependents on the income of the deceased. Hence, the petitioners filed the claim petition claiming compensation of Rs.9,00,000/-, payable by both the respondents.

4. Before the Tribunal, the 1st respondent remained *ex parte*. 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-7, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending jeep and awarded total compensation of Rs.7,50,000/-, i.e., Rs.7,20,000/- towards loss of dependency, Rs.15,000/- towards loss of consortium and Rs.15,000/- towards loss of estate, 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.7,50,000/-. Except the said modification, the remaining operative portion of the impugned order is confirmed.

8. In the result, the Civil Miscellaneous Appeal is partly allowed by reducing the interest from 9% to 7.5% on the compensation amount of Rs.7,50,000/- 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: 24th October, 2019

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