

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

MACMA No.3782 of 2005

JUDGMENT:

The United India Assurance Company Limited, which is arrayed as 2nd respondent in MVOP.No.174/2000 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge (FTC), Adilabad (for short 'the Tribunal'), preferred the instant appeal having got aggrieved by the said award, whereby and whereunder, the Tribunal has granted a sum of Rs.2,00,000/- with interest at 9% per annum. The claimants are respondents 1 to 3 and the owner of the vehicle is the 4th respondent in the present appeal.

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 fact-situation occurring in the instant case is that on 10.12.1999 at about 5 p.m. when the deceased Ramesh along with others was standing in-front-of one Durgam Tulsiram's house, a Jeep bearing No.MH 31G 4999 came from Kaghaznagar side in a rash and negligent manner and dashed the deceased Ramesh and two others, due to which the said Ramesh received severe injuries over his head and other parts of his body. Immediately after the accident Ramesh was shifted to Government Hospital, Sirpur T where he

succumbed to injuries while undergoing treatment. A report was also given to the police. The deceased Ramesh was earning an amount of Rs.1800/- per month by doing private job. Therefore, the petitioners who are legal heirs of Ramesh claimed compensation of Rs.2 lakhs.

4. The 2nd respondent Insurance Company filed counter denying the accident, involvement of the Jeep and injuries sustained by the deceased Ramesh. It also denied the fact that the vehicle was insured with this respondent and also states that the driver of the vehicle was not having valid driving licence by the date of accident.

5. Basing on the pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry before the Tribunal, the petitioner No.1 was examined himself as PW1 and in support of his contention he has examined PW2 and marked Exs.A1 to A3. The 2nd respondent has examined the school head master as RW1 and marked Exs.B1 to B5. Respondent No.1 did not adduce any evidence.

6. The Tribunal, on issue No.1, on appraisal of evidence, both, oral and documentary, arrived at the conclusion that only due to rash and negligent driving of the driver of the Jeep, accident had occurred and held it in favour of the petitioners.

7. On issue No.2, though PW1 has deposed that the deceased was aged 19 years and was the only earning member of their family, basing on the Inquest Report and School Admission Register, the Court below found that the deceased was aged only 13 years but not 19 years as contended by PW1, and has not accepted the income of the deceased at Rs.1,800/- per month. As the deceased was only a minor, the Court below considered the income of the deceased at Rs.15,000/- p.a. and fixed the multiplier '15' relying on the Judgment in 2004 (1) IAC 63 (SC) and awarded Rs.2 lakhs though they are entitled for Rs.2,25,000, since their claim was only for Rs.2 lakhs.

8. Learned counsel for the appellant submits that compensation awarded by the Court below is excessive as deceased is only 13 years and the interest granted @ 9% is also excessive. He also submits that as held by the Apex Court in several decisions interest should be granted @ 7.5%.

9. Heard learned counsel for respondents who submits that the 1st respondent passed away and respondents 2 and 3 are the only legal heirs and that the compensation awarded is to be distributed proportionately between respondents 2 and 3 equally.

10. A reading of the impugned Judgment goes to show that the Tribunal has considered the evidence of PWs.1, 2 and

RW1 basing on the documents Exs.A1 to A3 and B1 to B5, and rightly held that the respondents 1 to 3 are entitled for compensation and appellant is liable to pay compensation.

11. Learned counsel for the appellant submits that the Tribunal while calculating the income of the deceased failed to deduct 1/3rd of the amount towards personal expenses.

12. But, this Court finds that though the respondents are entitled for grant of compensation under several heads like loss of estate, funeral expenses, transportation charges, the same have not been granted by the Court below. If that is taken into account deduction of 1/3rd amount towards personal expenses does not make much difference.

13. In view of the above, this Court is of the opinion that the Tribunal granted just compensation, as such, I do not see any infirmity in the impugned order. But, however, since it is stated by the learned counsel for the appellant that the Apex Court in several decisions granted interest @ 7.5%, the interest granted by the Court below @ 9% is reduced to 7.5% on the awarded amount of Rs.2 lakhs.

14. Except modification in granting of interest by reducing the same from 9% to 7.5%, the remaining operative portion of the impugned order is confirmed.

15. Accordingly, the appeal is disposed of. No order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the appeal, stand disposed of.

2nd January, 2019
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A.RAJASHEKER REDDY, J