

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 2971 OF 2019

JUDGMENT:

This appeal is directed by the insurance company against the order and decree dated 18.02.2019 passed by the Motor Accidents Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad in M.V.O.P.No.50 of 2013, whereby the tribunal awarded compensation of Rs.21,59,421/- with proportionate costs and interest @ 7.5% per annum on account of the accident occurred on 03.08.2012 at about 03.30 A.M, as against the claim of Rs.25,00,000/-.

2. For the sake of convenience, the parties herein are referred to as arrayed in the tribunal.

3. Before the tribunal, respondent No.1, owner of the crime vehicle set exparte. Respondent No.2 – insurance company filed counter denying the claim of the petition.

4. In order to prove the case of the claimants, before the tribunal, the claimants examined PWs.1 to 3 and marked Exs.A.1 to A.11. No oral evidence is adduced on behalf of the respondents, but marked Ex.B.1- copy of insurance policy and Ex.X.1 inpatient record of the deceased of Christian Medical College, Vellore.

5. At the stage of admission, the claimants filed I.A.No.3 of 2019 to vacate the interim stay granted on 20.09.2019 and also

I.A.No.4 of 2019 to expedite the appeal for hearing, this Court disposed of the appeal itself.

6. Heard both sides.

7. Learned standing counsel appearing for the insurance company contended that the compensation granted by the tribunal is on higher side and that without any proof of income, the tribunal considered the notional income at Rs.12,000/- per month and that even though there is no evidence to support the medical expenses whether they have already reimbursed from any other source or not, the tribunal erroneously granted Rs.3,15,021/- and hence, prayed to allow the appeal.

8. Learned counsel appearing for the claimants contended that the award passed by the tribunal is well considered and hence, prayed to dismiss the appeal.

9. It is the case of death. The deceased was pursuing B.Tech in Vellore Institute of Technology, Vellore, Tamil Nadu and unmarried and he died in the above said accident. On perusal of the entire material available on record and having regard to the facts and circumstances of the case, there is no dispute with regard to the manner in which the accident occurred and that in the light of the decision of the Apex Court in **National Insurance Company Limited v Pranay Sethi**¹, the tribunal rightly taken notional income of the deceased at Rs.12,000/- per month and considered age of the deceased as 21 years as per Ex.X.1. It is a specific

¹ 2017(6) 170 (SC)

contention of the claimants that the medical expenses have not been reimbursed since the deceased was unemployed and his father was in private service and that the claimants have no other source to claim medical bills i.e medical insurance etc. As per Ex.X.1, the claimants paid Rs.3,15,021/- in the hospital and the same is supported by PW.2. Therefore, the order passed by the tribunal is well considered and needs no interference of this Court and accordingly, the appeal is liable to be dismissed.

8. In view of the above, the appeal is dismissed confirming the order and decree dated 18.02.2019 passed by the Motor Accidents Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad in M.V.O.P.No.50 of 2013. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 18.11.2019
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